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ACCOUNTING FOR THE ROLE OF THE PUBLIC IN DEMOCRATIC STATES'
COUNTERTERRORISM POLICIES: A COMPARATIVE CASE STUDY
ANALYSIS OF SPAIN AND THE UNITED KINGDOM

A thesis submitted in partial fulfillment
of the requirements for the degree of
Master of Arts

By

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B.A. International Studies, Wright State University, 2007

2011
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WRIGHT STATE UNIVERSITY
SCHOOL OF GRADUATE STUDIES

10 March 2011

I HEREBY RECOMMEND THAT THE THESIS PREPARED UNDER MY SUPERVISION BY Megan Cronenwett ENTITLED Accounting for the Role of the Public in Democratic States' Counterterrorism Policies: A Comparative Case Study Analysis of Spain and the United Kingdom BE ACCEPTED IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE DEGREE OF Master of Arts.

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ABSTRACT

Cronenwett, Megan, M.A., Department of Political Science, Wright State University, 2011. **"Accounting for the Role of the Public in Democratic States' Counterterrorism Policies: A Comparative Case Study of Spain and the United Kingdom"**.

Democratic states are more susceptible to terrorist attacks and yet have the most responsibility to ensure their counterterrorism responses are in accordance with democratic principles. Respect for the rule of law and the freedoms of speech and press are just a few of the principles ingrained in democratic philosophy and likewise, by the very nature of a democracy, democratic states must be held accountable to their citizenries. These factors, however, can be a cause of dissention and can lead to a dangerous overreaction or a disproportionate response by democratic states in their counterterrorism policies, including leading to the very undemocratic response of restricting civil liberties. This thesis researches and analyzes the counterterrorism policies of Britain and Spain and applies the theory of Moral Panics to evaluate how Moral Panics has influenced their respective counterterrorism policies to account for the discrepancy found between the British and Spanish state responses to terrorism.

Key Words: Terrorism, counterterrorism responses, fear and terrorism, disproportionate response, overreaction, terrorism and public opinion, Moral Panics theory

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Glossary/ List of Foreign Terms and Abbreviations

- *La Asociación Pro Derechos Humanos del País Vasco* – The Pro Human Rights Association of the Basque Country
- *La Asociación del Víctimas del Terrorismo* – The Association of Victims of Terrorism (AVT)
- *Audencia Nacional* – Spanish National Court
- *Batallón Vasco-Español* – Basque-Spanish Battalion (BVE)
- *Centro de Investigaciones Sociológicas* – Center of Sociological Investigations (CIS)
- *Cuerpo Nacional de Policía* – National Police Force
- *Ertzaintza* – Basque Police Force
- *Etarra* – member of ETA
- *Euskadi* – The Basque Country
- *Euskadi ta Askatasuna* – Basque Homeland and Freedom (ETA)
- *La Federación Provincial de Asociaciones de Vecinos* – The Provincial Federation of Neighborhood Associations
- *Fundación Colombia Herida* – Wounded Colombia Foundation
- *Gesto por la Paz de Euskal Herria* – Gesture for the Peace of the Basque Country
- *Grupos Antiterroristas de Liberación* – Anti-terrorist Liberation Groups (GAL)
- *Grupos Especiales de Operaciones* – Special Operations Groups (GEO)
- *Guardia Civil* – Civil Guard
- *Herri Batasuna* – the so-called political wing of ETA (HB)
- *Instituto Opina* – Opinion Institute
- *Partido Popular* – Popular Party (PP)
- *Partido Socialista Obrero Español* – Spanish Socialist Worker's Party (PSOE)
- *La Revista Española de Investigaciones Sociológicas* – The Spanish Magazine of Sociological Investigations
- *Sociedad Española de Radiodifusión* – Spanish Society of Radio (SER)
- *Unidades Antiterroristas Rurales* – Rural Antiterrorist Units

Introduction

Section I: Statement of the Problem

A. Introduction

It is well known that terrorism is not a new concept, however, the ways in which democratic states deal with the threat of terrorism today and considerations of the implications of their counterterrorism policies are relatively new. Regarding a state's counterterrorism policies, democratic states face an important dilemma regarding how to find the right balance between maintaining state security and upholding civil liberties, and how to address any imbalances between the two. The focus and intent of this thesis is to explore how and attempt to explain why Britain and Spain, both being European democracies having had very similar experiences with both domestic and international incidents of terrorism, have enacted quite different counterterrorism measures. This thesis includes key concepts in the history of terrorism in both Britain and Spain, discusses the existing literature, and presents the research question and the methodology utilized to analyze this comparative case study through the application of the sociological concept of Moral Panics.

The theory of Moral Panics is introduced below, and justification is given as to why this theory has been chosen in the attempt to explain the divergence in Britain and Spain's respective counterterrorism responses, but, first, a few alternative explanations are addressed that could explain this difference. Firstly, one could hypothesize that the difference between the British and Spanish counterterrorism responses could be explained through the nature of the most recent terrorist attacks committed in their respective states and the subsequent threat perception. In the Spanish case, the response

to the terrorist attacks of 11 March 2004 (11/M) was reactionary. After initially blaming the Spanish terrorist group ETA¹ for the 11/M attacks, the Spanish public became aware that the attacks were perpetrated by Islamic terrorists and were related to the Spanish military's presence in Iraq. Consequently, in the 2004 Presidential elections that followed just days after the 11/M attacks, Spaniards voted the party they deemed responsible for 11/M, the Popular Party, or PP, out of office and as such largely believed the terrorist threat to be over.² Contrary to the Spanish reactionary response, the British response was largely forward looking; legislation was enacted that would, with any luck, prevent future terrorist attacks. This hypothesis can be ruled out due to the fact that one could attribute the (ir)rational response of the Spanish citizenry to vote the PP out of office to acting out of fear; fear for what might happen if the PP were to stay in office, which in turn, allows for the theory of Moral Panics to possibly explain the public's reaction.

A second hypothesis one could offer as an alternate explanation to the theory of Moral Panics concerns the history of terrorism and democracy in the two countries. Whereas while the British Government did enact undemocratic policies against the Irish Republican Army, IRA, they were not as repressive as the Spanish policies, especially regarding the state-sponsored death squads used, unsuccessfully, during the Spanish dirty war to thwart ETA.³ Even if one were to argue that the Spanish tactics were less repressive than the British, this still does not account for the fact that the Spanish democracy is much younger than British democracy and, as such, confidence in the

¹ *Euskadi ta Askatasuna* or Basque Homeland and Freedom

² *Partido Popular* or Popular Party; the PP led by José Maria Aznar was deemed responsible for the 11/M attacks and, therefore, in the 14 March 2004 elections, the PSOE, *Partido Socialista Obrero Español* or Spanish Socialist Workers' Party, led by José Luis Rodríguez Zapatero, was elected to office.

³ The Spanish state-sponsored death squads were the *Grupos Antiterrorista de Liberación*, GAL, or Anti-Terrorist Liberation Groups

Spanish democracy is less stable, especially in the minds of older Spaniards who still remember well the times of General Francisco Franco's, former dictator of Spain, rule just over three decades ago.

One could offer many different hypotheses as to why the British and Spanish state responses to terrorism have taken two very different courses. However, as should be evident, the public has some role to play in these competing explanations. It is for this reason that the theory of Moral Panics emerges as having strong prospects to explain how these two very similar liberal democratic states have taken two very dissimilar approaches to counterterrorism, especially in the post-9/11 world. Next, an overview of the theory of Moral Panics is given, and why it is this author's belief that the theory of Moral Panics can offer some insight into how democratic states construct their counterterrorism policies.

Moral Panics overview:

The theory of Moral Panics is borrowed from Political Science's sister field of Sociology and adapted for purposes of this thesis to the study of terrorism, and, in particular, counterterrorism responses, in the attempt to explain the differences between the British and Spanish state responses to terrorism. The theory of Moral Panics is adapted in order for the theory to offer more insight into the study of terrorism and counterterrorism. These adaptations include excluding the aspect of morals and immoral behavior. While it is noted that morals may have an impact on the design of counterterrorism policies it is not within the scope of this thesis to address these potential impacts.

Moral Panics is a term that was coined by Stanley Cohen “as a means of characterizing the reactions of the media, the public, and agents of social control on the youthful disturbances”.⁴ According to Cohen, during a moral panic:

A condition, episode, person or group of persons emerges to become defined as a threat to societal values or interests; its nature is presented in a stylized and stereotypical fashion by the mass media; the moral barricades are manned by editors, bishops, politicians and other right-thinking people; socially accredited experts pronounce their diagnoses and solutions; ways of coping are evolved or ... resorted to; the condition then disappears, submerges or deteriorates and becomes more visible. Sometimes the subject of the panic is quite novel and at other times it is something which has been in existence long enough, but suddenly appears in the limelight. Sometimes the panic passes over and is forgotten, except in folklore and collective memory; at other times it has more serious and long-lasting repercussions and might produce such changes as those in legal and social policy or even in the way society conceives itself.⁵

There are many reasons why the application of the theory of Moral Panics may be advantageous or beneficial to the study of terrorism and counterterrorism approaches. Firstly, as Goode and Ben-Yehuda state, “an investigation of the moral panic emphasizes that social reactions to a new and seemingly threatening phenomenon arise as a consequence of that phenomenon’s real or supposed threat to certain ‘positions, statuses, interests, ideologies, and values’”.⁶ It is within this context that the author finds the application of Moral Panics to the study of terrorism and counterterrorism policies particularly promising. Secondly,

[T]he question of the appropriate social and legal control of the responsible parties *almost inevitably* [author’s emphasis] accompanies the moral panic. Moreover, legislation and its enforcement are usually seen as only one step; for those for whom the behavior in question is seen as a

⁴ Goode and Ben-Yehuda, 24

⁵ *Ibid*

⁶ Goode and Ben-Yehuda, 30

threat, measures such as education, socialization, normative changes, prevention, ‘treatment’ and ‘cures’ will be suggested and debated.⁷

Noting this, the application of Moral Panics appears even more beneficial to the study of counterterrorism responses to provide insight into why it is that democratic states enact certain acts of legislation.

Thirdly, examining how the public responds to acts of terrorist violence, especially within their own state, can explain the very antagonistic feelings for the terrorists and their goals, and given that “the key ingredient in the emergence of a moral panic is the creation or intensification of hostility toward and denunciation of a particular group, category, or cast of characters” the two coincide very well.⁸ Fourthly, given the fact that some countries treat terrorism as a crime in their counterterrorism approach (i.e. whereby the state “only” charges a known or suspected terrorist with existing or newly drafted and implemented crimes, through what is known as the “law enforcement approach” to counterterrorism), and one of the central features of a moral panic is the attempt to criminalize certain behaviors, again the two overlap and the study of both could be mutually beneficial.⁹ Lastly, and related to the previous, “no examination of the moral panic is complete without a consideration of legislation and law enforcement”, and this is due to the fact that “legislation and law enforcement are two of the most obvious and widely resorted-to efforts to crush a putative threat during a moral panic”.¹⁰ Considering the extent to which counterterrorism approaches are related to legislation

⁷ Goode and Ben-Yehuda, 32

⁸ Goode and Ben-Yehuda, 74

⁹ Goode and Ben-Yehuda, 82

¹⁰ *Ibid.*

and law enforcement, it can be easily understood how this would apply to the study of terrorism and counterterrorism approaches.

It is argued in this thesis that the difference between Britain's and Spain's respective counterterrorism policies can be, at least partially, explained using the theory of Moral Panics. Goode and Ben-Yehuda list five actors as parties who can attribute to a moral panic: the press, public, agents of social control or law enforcement, lawmakers and politicians, and action groups.¹¹ This thesis shall look at how each of these five actors have or have not attributed to the creation of a moral panic in Spain and the United Kingdom. The indicators of a moral panic according to Goode and Ben-Yehuda are: a heightened level of concern, an increased level of hostility, substantial or widespread agreement or consensus that the threat is real, serious, and caused by the wrongdoing group members and their behaviour, disproportionality, and volatility.¹²

The intention of this thesis is to utilize the theory of Moral Panics in the attempt to fill a void in terrorism and counterterrorism literature by analyzing the role the public plays in a democratic state's counterterrorism policies. This is especially true noting the importance of the public in contemporary democracies, as the public is an essential component of a democratic government. The theory of Moral Panics affords the author the ability to analyze the differences between the British and Spanish states' responses to acts of terrorist violence and the theory will be used as a framework to help examine how these democracies construct their counterterrorism policies.

¹¹ Goode and Ben-Yehuda, 24

¹² Goode and Ben-Yehuda, 33-41

B: The Research Question

Why have Britain and Spain, while being relatively similar in their institutional and regulatory structure, taken such different approaches in their counterterrorism policies? While there are many factors, both internal and external, domestic and international, that help to shape a democratic state's counterterrorism policy, for purposes of this comparative case study the focus will be on the public and its effect on British and Spanish counterterrorism policies.

This comparative case study employs John Stuart Mill's "method of difference", otherwise known by Adam Przeworski as "most similar systems", in the attempt to explain the divergence found between the British and Spanish counterterrorism responses. According to Van Evera, "we pick similar cases to reduce the number of candidate causes or effects that emerge: the more similar the cases, the fewer the candidates, making real causes and effects easier to spot".¹³ Furthermore, "if case conditions are uniform, we can discount third-variable influence as a cause of observed within-case covariance between values on IV [independent variable] and DV [dependent variable]".¹⁴ As stated by Przeworski and Tuene, "it is anticipated that if some important differences are found among these otherwise similar countries, then the number of factors attributable to these differences will be sufficiently small to warrant explanation in terms of those differences alone".¹⁵ In other words, the logic behind applying Mill's "method of difference" in this comparative case study is such that by comparing similar cases, one

¹³ Van Evera, 23

¹⁴ Van Evera, 52

¹⁵ Przeworski and Tuene, 32

can control for a large number of variables and, therefore, be able to offer explanations based on the discrepancies found among the common variables.

C. Sub-questions

What role, and to what extent, do Moral Panics play in a democratic state's counterterrorism approaches? Will the theory of Moral Panics contribute to understanding public opinion and its effect on counterterrorism policies?

D. Literature Review

Introduction:

The literature on British and Spanish counterterrorism responses demonstrates that there are a number of different options democratic states may utilize in their counterterrorism policies. While there are competing arguments put forth by various scholars regarding British and Spanish counterterrorism responses, there are several common themes in the literature. The themes in this literature review highlight the array of options available to democratic states when crafting their counterterrorism policies and responses, and focus on the role of the public in each of these different types of responses. This review organizes the spectrum of counterterrorism responses into the following: conciliatory options, legalistic options, repressive options, and warlike options.¹⁶ Each of these categories is subsequently addressed in this literature review. Additionally, alternative hypotheses regarding these types of responses are examined.

¹⁶ While other scholars discuss these four categories Martin adequately names the different categories and therefore they are borrowed Martin, Gus Understanding Terrorism, Challenges, Perspectives, and Issues, pp. 478-479

Conciliatory Options

Conciliatory options incorporate the ‘softest’ available options a democratic state has the ability to apply in its counterterrorism initiatives. Conciliatory options include the following: diplomacy, concessions, and social reforms.¹⁷ Conciliatory options often appear to be the least desired alternative for democratic states to employ because it is often feared that if the country negotiates with terrorists, it will appear too “soft”, and, moreover, some countries follow an *official* [emphasis added] policy not to negotiate with terrorists, which consequently, makes this option very unlikely, if not impossible, to pursue, or at least openly pursue. Furthermore, as Nacos highlights, the public may also disapprove of negotiating with terrorists.¹⁸ However, not all countries are opposed to conciliatory options and several democratic states have engaged in concessions or negotiations with terrorist organizations either openly or secretly, disguising them as “talks” or “dialogues” (e.g. Spain with the Basque terrorist organization, ETA).¹⁹

A further complication with conciliatory options is that even if a democratic government is willing to talk and negotiate with a terrorist organization, the group itself may not be willing to negotiate, especially in the case of trying to negotiate peace deals. As Gross aptly writes, “in the eyes of the terrorist organization, peace is a ‘death blow’ that will lead to its disbanding, and therefore, no circumstances can exist that will cause the organization to enter into a peace treaty with its ‘democratic enemy’ and cease fighting it”.²⁰ Likewise, “a state organ that signs a peace treaty with a terrorist

¹⁷ Martin, 478

¹⁸ Nacos 2008, 284

¹⁹ Shabad and Ramo, 463

²⁰ Gross, 56

organization will be according recognition to that terrorist organization, an outcome that is inconceivable”.²¹

While terrorist groups are unlikely to negotiate a peace deal with a democratic state this does not necessarily imply that the organization will not try to get the state to concede or give in to its demands in other ways, such as through enacting societal reforms that grant the terrorist organization, or the interests of the group of persons it represents, greater political representation. This is due to the fact that “it is thought by many terrorist organizations that democracies are “more coercible and less resilient, making their capitulation to terrorists’ demands more likely”.²²

As a democratic government is held responsible to public opinion, conceding to a terrorist organization often takes some convincing. Hoffman and Morrison-Taw discuss how democratic governments can persuade the public through the use of “legitimizing measures” which can be put in place in order to “build public confidence in the government and support for the counterterrorist campaign”.²³ Hoffman and Morrison-Taw assert that “legitimizing measures can encompass a wide variety of actions and legislation: political concessions to ethnic or religious minorities; economic measures to ameliorate housing and employment inequities or deficiencies; defensive steps to protect the public from terrorist reprisals”.²⁴ Conceding to terrorist groups and affording them political concessions in the form of permitting them some (or more) political involvement allows the terrorist organization to actively take part in the government, which yields the added benefit that they are then less likely to use acts of violence or terrorism because

²¹ *Ibid.*

²² Borer and Freeman, 66

²³ Reinares 2000, 9

²⁴ *Ibid.*

they then have something to lose. On the other side of public opinion, if a terrorist organization were to succeed in gaining sympathizers, or instilling enough fear in the general population, the populace might push the government to concede to the terrorist organization's demand(s).

Under the umbrella of conciliatory options one could devise a hypothesis stating that the divergence found between the British and Spanish counterterrorism responses can be attributed to the governmental structure of federalism in Spain. It is true that the Spanish system of federalism affords its different regions a great level of autonomy such as the right to self-governance. As such, one could be led to believe that this could lead to stronger or more repressive regional counterterrorism measures especially noting the fact that "the regional police authorities are competent for terrorist activities on the regional level," however, it does not.²⁵ This is due to the fact that the Spanish national government retains the authority to respond to terrorist threats on the national and international levels as Spanish criminal law grants the national government universal jurisdiction over terrorist offences.²⁶

One could argue that this competing authority and responsibility for counterterrorism measure could impede stronger counterterrorism approaches, and that the lack of any *major* new counterterrorism measures enacted by the Spanish government after the 9/11 terrorist attacks is an example of such. This, however, is not the case, as the legislation that was previously enacted to counter the terrorist threat from ETA can also be used to counter the new terrorist threats Spain faces and, therefore, more restrictive counterterrorism measures were deemed unnecessary. This is especially true noting the

²⁵ Martínez, 534

²⁶ *Ibid.*

fact that Spain's experience of ETA terrorism has a long history of being international in dimension, as parts of the Basque Country are found in France. In sum, the structure of federalism and the competing authority for counterterrorism measures found in Spain are not sufficient, or at least not in and of themselves, to explain the divergence between the British and Spanish counterterrorism responses.

Legalistic Options

One of the most discussed aspects of counterterrorism measures is the two-sided issue of how democratic states employ the rule of law. The literature addresses this issue firstly, by noting how democratic states have the obligation to counter terrorism through the rule of law, and secondly, how breaches of the rule of law cause more damage to the democratic system than the threat of terrorism itself does.

One of the foremost principles of a democratic government is respect for the rule of law or following Gross' description, respect for the rule of law is "a central and basic component of democratic society".²⁷ Alonso and Reinares take this a step further in claiming, "there is no other way for democratic institutions and collective actors than acting, in accordance with the rule of law, to guarantee fundamental rights and civil liberties".²⁸ Nacos addresses the importance of "decisive defensive and aggressive responses to terror" but highlights the fact that these responses shall not come "at the expense of the moral high ground that belongs to those who respect the law and humanitarian principles".²⁹

²⁷ Gross, 59

²⁸ Alonso and Reinares 2005, 277

²⁹ Nacos, 2008, 184

While it may appear contrary to democratic principles that a democratic state would ever violate the rule of law, the opposite is unfortunately true. Democratic governments have cited many different reasons as to why it was deemed necessary to act outside the rule of law. Jiménez offers the following list of justifications democratic states have given for breaching the rule of law: “the processes of law are too cumbersome, that the normal safeguards in the law for the individual are not designed for an emergency and that, given the often indiscriminate violence perpetrated, the terrorist deserves to be treated outside normal law”.³⁰

While this list of justifications may seem reasonable, or rational, as Schmid highlights, “there are also practical considerations which make it very much more in the government interest to remain within the law in pursuing terrorism than going outside it”.³¹ The most significant reason why a democratic state would not want to venture outside the rule of law in its counterterrorism measures, aside from the fact that this is highly undemocratic, is that by acting outside the rule of law, the democratic government is helping to justify the terrorist group’s actions. This is especially true considering terrorist organizations often claim the repressive measures of a democratic state as justification for their actions. As Woodworth writes, “one of its [terrorism’s] greatest dangers lies in the way in which terrorism tempts democracies to take short cuts, to break their own best rules. Terrorists win when democracies become less democratic in response to the terrorist threat”.³² There is much truth to this statement which is exemplified by the Spanish dirty war experience with ETA, in which Spain tried to

³⁰ Schmid, 129

³¹ *Ibid.*

³² Woodworth 2004, 169

combat ETA through dirty war tactics (i.e. the use of state-sponsored death squads) that, consequently, produced the reverse of the intended outcome; instead of stopping ETA, the Spanish state lost legitimacy and actually helped ETA to gain more legitimacy and increase its membership.³³

In addressing why democratic states must continue to abide by the rules of law even when terrorist organizations do not, Gross writes:

If we were to allow a democratic state in its war against terror to breach the laws of war on the grounds that the other side also breached them, we would not thereby be helping the state to defeat its enemy; we would be helping the enemy to defeat us. We would also undermine the rule of law and the stability of civilized society. We would cause democratic states to lose their character. We must avoid this result at all costs.³⁴

Another aspect of legalistic options addressed in the literature is the expansion of police and executive powers. Democratic states have expanded the powers of law enforcement and intelligence agencies both in an attempt to thwart terrorist attacks through preventative measures and also as lessons and consequence of their unfortunate experiences with terrorism. The broadening of police powers has taken many different forms. One example of such is exemplified by the fact that Spain and the U.K. both expanded “powers to collect data from private companies ... particularly with regard to telecommunication providers [who] are obliged to retain certain communication data”.³⁵ Furthermore, in Britain’s Anti-terrorism Crime and Security Act of 2000 provisions were made “for the enhancement and extension of police powers which are only loosely or not at all connected to terrorism. [...] Even more far reaching are the provisions in

³³ Woodworth 2004,173-174

³⁴ Gross, 59

³⁵ Krieger, 59-60

Part 3 of the Anti-terrorism, Crime and Security Act [ATCSA] 2001, which dramatically extend the disclosure powers available to public authorities”.³⁶

While it may seem logical a state would expand its police force’s powers in a time of emergency, such as during the threat of a terrorist attack, this expansion of police powers is a concern to some, including human rights advocates. Roth demonstrates this concern in the “Human Rights Watch World Report 2004” by writing, “enticing as such enhanced power might be in the face of the unpredictable and often lethal threat posed by terrorism, it threatens basic due process rights and the essential liberty such rights protect.”³⁷ While human rights advocates and others have criticized the expansion of police powers, the literature also emphasizes how these expansions, in some respects, have been made possible by the public’s willingness to forgo privacy and other civil liberties in exchange for security. However, as Smith notes, “it takes enormous political courage to resist being swept along the tides of populist sentiment that, if succumbed to, will risk trampling upon the very liberties that western democracies are seeking to protect”.³⁸ In other words, even though public opinion is an integral factor of a democracy, democratic states need to exercise caution when employing extreme counterterrorism methods even when public sentiment is in favor of seemingly Draconian counterterrorism methods.

A state’s domestic counterterrorism measures also have implications for domestic and international law. In order to implement many of the legalistic options discussed above and the repressive and warlike options that are addressed below, states have had to

³⁶ Grote 2004a, 616

³⁷ Roth, 1

³⁸ Smith, 76

modify their laws. This has occurred in a number of ways including revising old legislation, creating and passing new legislation, and the more extreme case of derogating from international treaties. A major source of contention regarding these laws is that the newly created or revised legislation, and especially the derogations from certain international treaties, have had severe implications for civil liberties.

Under legalistic options one might design a number of hypotheses that could be used to explain the divergence found between the British and Spanish counterterrorism policies and responses. The first would be that the difference between the two countries' counterterrorism policies and responses could be attributed to the fact that Britain, unlike Spain, lacks a written Constitution and that it has functioned throughout most of its history without a Constitutional Court. While this may be true, it is not sufficient to explain the divergence. Britain has numerous domestic laws and is party to all of the international conventions related to terrorism, and, is a member of the European Union which, as such, suggests that there are various domestic and international laws and norms that the British state is held accountable to regardless of the fact that the British lack a written Constitution.

Additionally, it could be argued that the lack of sufficient checks and balances within the British Government could explain this divergence, but as Britain has domestic courts and is also held accountable to a number of courts within the institutional framework of the European Union, the absence of a Constitutional Court does not explain the divergence either. This is especially true regarding the European Court of Human Rights (ECtHR) as any laws that may be deemed to violate human rights are subject to judicial review within the ECtHR. Moreover, with the enactment of the Human Rights

Act of 1998, the British “courts were given ... a power to declare that Acts of Parliament were incompatible with the Convention [European Convention on Human Rights or ECHR]”, and this demonstrates that there is indeed a system of checks and balances that the British government is subject to.³⁹

It could also be hypothesized that the enactment of emergency powers such as the Prevention of Terrorism Acts used between 1974-1989 regarding Northern Ireland and the Prevention of Terrorism Act of 2005 could be used to explain the divergence in counterterrorism policies set forth by Spain and the U.K., but this claim would be invalid. Spain has also enacted emergency legislation and has counterterrorism legislation that can be utilized to suspend a person’s fundamental rights if they are suspected of, or found guilty of, being involved in terrorist activities.⁴⁰ Moreover, the ability to suspend a person’s fundamental rights on an individual basis is found in Article 55 (2) of the Spanish Constitution.⁴¹ In sum, the absence of a Constitution or Constitutional Court, a system of checks and balance, and the enactment of emergency legislation are not sufficient, or at least not in and of themselves, to explain the difference between the British and Spanish counterterrorism responses.

³⁹ Smith, 80

⁴⁰ Martínez, 520

⁴¹ *Una ley orgánica podrá determinar la forma y los casos en que, de forma individual y con la necesaria intervención judicial y el adecuado control parlamentario, los derechos reconocidos en los artículos 17, apartado 2, y 18, apartados 2 y 3, pueden ser suspendidos para personas determinadas, en relación con las investigaciones correspondientes a la actuación de bandas armadas o elementos terroristas.* (An organic law could determine the form and the cases in which, in an individual form [manner] and with the necessary judicial intervention and adequate parliamentary control, the rights recognized in Article 17, paragraph 2 [limiting preventative detention to 72 hours] and Article 18, paragraphs 2 and 3 [regarding home invasions and keeping personal communications private, respectively] may be suspended for specific persons, in relation with investigations of activities of armed bands or terrorist elements.)

Repressive Options

Repressive options can coincide with the legalistic options available to democratic states in their counterterrorism measures, but they differ regarding the fact that the repressive options are designed to be more punitive than the legalistic options. Examples of repressive options include economic or political sanctions. One of the issues found in the implementation of sanctions is that “imposing and enforcing such sanctions requires exceptional cooperation between the nations of the free world”.⁴² In other words, these sanctions need to be enforced multilaterally, and not just unilaterally, in order for them to be truly effective. While unilateral sanctions can have some impact on a terrorist group, the terrorist group would be more likely to comply with the sanctions if they are implemented multilaterally.

While the subject of the restriction of civil liberties has been previously discussed, it merits full attention under repressive options. A theme found in the literature of counterterrorism responses is related to how counterterrorism measures can adversely effect the rights of innocent civilians caught in the middle of the process of trying to capture suspected or known terrorists and prosecute them for their crimes. Some scholars maintain that there is a “widespread view that the freedoms and liberties in democracies constrain how they fight terrorism”.⁴³ However, as Krieger expresses, this is not always the case:

Privacy, press and protest are inherent characteristics of the liberal conception of freedom. In times of terrorist threats, limitations of these rights re-establish the balance between freedom and security in favor of more security. Thus, many observers fear that human rights might become a collateral damage of the war against terrorism. In order to prevent such a

⁴² Gross, 57

⁴³ Borer and Freeman, 67

collateral damage, legal systems restrict permissible limitations on human rights. Legislation must be foreseeable, proportionate and it must provide safeguards against possible abuses.⁴⁴

What is apparent from Krieger's statement is that, on one hand, security is of the utmost importance for a state when the threat of a terrorist attack is imminent but, on the other hand, in the state's attempt to maintain the security of their citizenry, it is inevitable that a certain amount of civil liberties and human rights will be abused. Many different types of civil liberties can be potentially abused in a democratic state's counterterrorism initiatives as evidenced by PoKempner's warning, "one aspect of the social harm [of counterterrorism policies] is that many innocent people's rights are inevitably abrogated in the search for the real terrorist".⁴⁵ The civil liberties abuses most likely to have an effect on the average citizen range in scope from unlawful search and seizure to recovering private telecommunication data to restricting speech.

It is imperative that democratic states hold their democratic beliefs steadfast when combating terrorism because to otherwise do so, would render the state undemocratic. It is, however, possible for democratic states to *temporarily* modify or impose restrictions of civil liberties in order to combat a terrorist threat, but "to keep these modifications of restrictions in place for too long would damage, not help, the democratic state".⁴⁶ According to Hoffman and Morrison-Taw, "there is a fine line between the imposition of emergency measures and the restriction of civil rights" and this is one aspect of counterterrorism measures that democratic states cannot afford to

⁴⁴ Krieger, 52

⁴⁵ PoKempner, 163-164

⁴⁶ Borer and Freeman, 67

not heed to.⁴⁷ This is especially true when one takes into consideration the fact that, “a democracy that permits itself to deviate from respect for these values [the rule of law, the separation of powers, the independence of the judicial authority, and recognition of principles of social morality and justice at the core of which lie human rights] – even for a limited period of time – is not a bad democracy, but from a substantive point of view, it is not a democracy at all”.⁴⁸ Again, as aforementioned, even if these restrictions are advocated for, or even just supported, by the public, the state must be vigilant and ensure they do not violate the democratic principles the state is built upon.

Warlike Options

The last, and most extreme, group of options democratic states have to combat terrorism are warlike options which include: war, covert operations and torture. One of the more prevalent themes present in the literature is the fact that democratic states have the ability, if not the right and obligation, to engage in military operations against terrorist organizations or other states, in order to protect their citizenry. One of the greatest rights afforded to sovereign states is the right to self-defense, and as Gross notes, “we have seen that self-defense is an exception to the theory whereby disputes are resolved by the normative structures of the rule of law: either within the state, by the authorities responsible for the enforcement of the law between states; or on the international level, in accordance with the UN Charter”.⁴⁹ Gross additionally claims that for a state to protect its citizens by means of self-defense is “a moral obligation” and

⁴⁷ Reinales 2000, 14

⁴⁸ Gross, 255

⁴⁹ Gross, 42

“that it is not only the right but also the legal and moral duty of the democratic state to use appropriate measures, including force, to thwart the dangers posed to the security of its citizens”.⁵⁰

Furthermore, the right to self-defense against a terrorist threat is recognized and enshrined in domestic and international law. As Gross writes:

A state threatened by a terrorist organization is entitled to act against the organization as such; a measure taken by the state will not be deemed to be a breach of Article 2(4)⁵¹ of the Charter [of the United Nations], since it will amount to the use of limited and temporary force directed solely at removing the terrorist threat. So long as the activity is not directed against the civilians or property of the state in which the terrorists are located, and it is not intended to conquer territory or achieve political gains, the use of force will not constitute a violation of territorial integrity of sovereignty and therefore will not be contrary to Article 2(4) of the Charter [of the United Nations].⁵²

Additionally, the Security Council “has recognized the need to equate acts of terrorism in general – at least acts of terrorism of extensive force, quality, and scope – with armed attacks in the sense of Article 51⁵³ of the Charter”.⁵⁴ However, even in light of international recognition of the right to self-defense, democratic states would still benefit from the exercising caution or being prudent in choosing any of the warlike options to

⁵⁰ Gross, 27

⁵¹ All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations.

⁵² Gross, 40-41

⁵³ Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

⁵⁴ Gross, 39-40

combat the threat of terrorism. As Nacos points out, “overreaction undermines the moral fabric of a society that is victimized by terrorists and plays into the hands of terrorists and the assumptions central to their calculus of violence”.⁵⁵

Perhaps the most controversial aspect of a democratic state’s response to the threat of terrorism is the use of torture. In the post-9/11 world, torture came to the forefront of the debate on appropriate counterterrorism measures. Some argue that torture is justifiable due to the fact that information to prevent future attacks can only be obtained through torture, while other experts and scholars, including legal expert Henry Mark Holzer, claim that “torture of whatever kind, and no matter how brutal, in defense of human rights and legitimate self-preservation is not only immoral; it is a moral imperative”.⁵⁶ Furthermore, torture does not always yield useful information. As one of the head Investigating Judges of the Spanish National Court said, “I come from the country of the Inquisition ... we had to learn from experience that torture, and mistreatment and degradation, do not work”.⁵⁷

Another controversial aspect of counterterrorism measures is that of indefinite detention. The greatest, and most frequent, argument in favor of indefinite detention is that known or suspected terrorists pose a security threat and they, therefore, cannot be afforded the luxury of freedom. Additionally, democratic states are unable to legally extradite known or suspected terrorists to countries where they could face persecution or the death penalty and, therefore, the state has no choice but to keep the terrorists in indefinite detention. As Brigitte L. Nacos notes, “to defeat evil, we may have to traffic in

⁵⁵ Nacos 2008, 300

⁵⁶ Nacos 2008, 182

⁵⁷ Brysk, 136

evils: indefinite detention of suspects, coercive interrogations, targeted assassinations, even pre-emptive war. These are evils because each strays from national and international law and because they kill people or deprive them of freedom without due process. They can be justified only if they prevent the greater evil”.⁵⁸ Nacos’ argument, however, implies that these “evils” are justifiable, as evidenced by the public support or at least toleration of places such as Guantanamo Bay in the post-9/11 world, but her argument, nonetheless, is a source of great contention. On the other side of the debate, human rights activists claim that indefinite detention goes against a person’s rights, regardless if they are a terrorist or not, rights enshrined in the Universal Declaration of Human Rights.

Conclusion

As evidenced in the preceding pages, democratic states have a wide range of options available to them when constructing their counterterrorism policies. Brigitte Nacos, in citing Paul R. Pillar, writes, “‘whether one likes it or not, or thinks it should happen or not, public opinion affects policy decisions.’ Conversely, governments, too, depend on propaganda and at times even on high fear appeals to enlist public support for anti- and counterterrorist initiatives”.⁵⁹ There is a significant void in the literature on democratic states’ responses to terrorism that analyzes the role that the public has in determining which policies the democratic government should adopt to counter terrorism. This void is very important to address, especially considering the fact that by its very nature, a democratic state must be accountable to the public and its opinion. It would be advantageous to study and analyze what, and to how great an extent, the role the public

⁵⁸ Nacos 2008, 179

⁵⁹ Nacos 2008, 272-273

plays in how a democratic state implements counterterrorism measures in order to gain a better understanding as to how and why democratic governments choose the counterterrorism measures they do.

Section II: Procedure

E. Methodology/Research Design

The operationalization of the research will include using Goode and Ben-Yehuda's theory of moral panics as a framework or method to organize, test, and analyze state policies subsequent to the terrorist attacks of 11/M and 7/7 in the attempt to account for the missing piece in counterterrorism literature of the role of the public in democratic states' counterterrorism policies. For purposes of this thesis the dependent variable (DV) will be the British and Spanish state counterterrorism responses and the independent variable (IV) will be the indicators of a moral panic. The indicators of a moral panic according to Goode and Ben-Yehuda are:

- A "heightened level of *concern* over the behavior of a certain group or category and the consequences that that behavior presumably causes for the rest of the society. This concern should be manifested or measurable in concrete ways.";
- An "increased level of *hostility* toward the group or category regarded as engaging in the behavior in question ... not only must the condition, phenomenon, or behavior be seen as threatening, but a clearly identifiable group in or segment of the society must be seen as *responsible* for the threat";
- "[S]ubstantial or widespread *agreement* or *consensus* ... that the threat is real, serious, and caused by the wrongdoing group members and their behavior";
- Disproportionality – "there is a sense on the part of many members of society that a more sizeable number of individuals are engaged in the behavior in questions than actually are, and the threat, danger, or damage said to be caused by the

behavior is far more substantial than, is incommensurate with and in fact is ‘above and beyond that which a realistic appraisal could sustain’”;

- Volatility – the moral panic “erupt[s] fairly suddenly (although they may lie dormant or latent for long periods of time, and may reappear from time to time) and, nearly as suddenly, subside. Some moral panics may become *routinized* or *institutionalized*”.⁶⁰

The following data sources will be used to evaluate whether Goode and Ben-Yehuda’s indicators of a moral panic were present in Britain and Spain:

- Opinion polls to gauge public sentiment and reactions,
- Information regarding Action Groups
- Statements by British and Spanish heads of government,
- Statements by British and Spanish heads of opposition,
- Newspaper content (e.g. headlines, articles, editorials, etc.)
 - For the Spanish case, editorials are chosen from *El País*, the most widely read newspaper in Spain. The editorials for the British case are taken primarily from *The Times*, but supplementary articles also come from *The Guardian*, *The Irish Times*, and other newspapers.
- Actions (or inactions) of the British and Spanish security forces
- British and Spanish legislation related to terrorism

Moreover, this thesis researches Britain and Spain’s responses to domestic terrorism with the IRA and ETA, respectively, and then compares the countries’ responses to domestic terrorist incidents with their responses to incidents of international terrorism. For the purpose of this thesis, the time period from which the British response to its problem with Irish Republican terrorism will be set as beginning with the Troubles and the Irish Republican Army/Provisional IRA (IRA/PIRA) split in 1969 and ending

⁶⁰ Goode and Ben-Yehuda, 33-41

with the Good Friday Accords in 1998; the time period from which the Spanish response to its problem with ETA will be set as starting with the beginning of democracy in Spain in 1978 and ending with ETA's declaration of a "permanent" ceasefire in 2006. The findings are then used to compare Spain's response to the 11/M and Britain's response to the 7/7 and 21/7 terrorist attacks, and additionally highlight the role moral panics has or has not played in these states' counterterrorism policies. Lastly, the findings of this comparative case study are analyzed to offer suggestions for other democratic states and their counterterrorism initiatives.

Chapter 1: Public Opinion Data

Spain⁶¹

Looking at the case of Spain, throughout the time period of this thesis, terrorism was almost always listed as one of the top two priorities citizens felt the Spanish Government should tackle. One exception to this was in 1985 when terrorism fell behind not only unemployment but also concern for the necessity of “a more effective fight against drugs”.⁶² There were also exceptional cases in which terrorism took first place on the list of concerns of the Spanish people (i.e. ahead of the concern regarding unemployment). One such case was in 1997 when terrorism was the top concern for 54.8%⁶³ of the Spanish citizenry and again in 2000 when terrorism was considered the leading problem by 72.1%⁶⁴ and 81.5%⁶⁵ of Spaniards, in November and December of 2000, respectively. What makes these last numbers even more interesting is that at the beginning of the new millennium, 53% of those surveyed also believed that Spain would

⁶¹ Note: The data for this thesis was collected from *El País* and *El Mundo* for the Spanish case, and *The Times of London* and *The Guardian* were consulted for the British case. When data were unavailable in any of the major newspapers, other reputable sources of public opinion, including public opinion research companies or groups were consulted. As a last resort or as a measure to gather additional necessary information, a Lexis Nexis search was performed. In an attempt to maintain the integrity of this work, an attempt has been made to not use any non-domestic sources of information as a primary data resource and therefore, it is only used as such when no other relevant information could be found or used. The outside sources do serve as a means of supplementing the data with certain quotes regarding some information.

⁶² Survey done by *La Revista Española de Investigaciones Sociológicas* (*The Spanish Magazine of Sociological Investigations*)

⁶³“El 48% de los ciudadanos juzga ‘regular’ la situación política, según el CIS”, *El País*, 26 March 1997

⁶⁴“El 72% considera que el terrorismo es el primer problema de España”, *El País*, 29 November 2000

⁶⁵“La preocupación de los españoles por el terrorismo crece 10 puntos”, *El País*, 28 December 2000

finally achieve an end to terrorism.⁶⁶ In other words, even though Spaniards were concerned about the threat of terrorism, they were optimistic the threat of terrorism would soon end. This is true even in light of the fact that the Spanish public was often pessimistic when it came to ETA's various ceasefire declarations. For example in February 1999, after the 1998 "indefinite truce", 71% of those Spaniards interviewed believed it was "perfectly possible" for ETA to return to using arms.⁶⁷ However, half of the Spanish citizenry believed that the Spanish Government had done more for the peace process than ETA.⁶⁸ Therefore, even though the Spanish case demonstrates a large amount of pessimism toward the maintenance of ETA's ceasefires, at least half of the public believed that the Spanish government was doing its share, or more, in trying to achieve peace.

In the post-9/11 world concern for terrorism within the Spanish society also exhibited some volatility. Much like with the pre-9/11 world, most of the data indicate that terrorism was second to unemployment for most of the research period, but a few months after the September 11th attacks in New York and Washington D.C., in December 2001, 74.2% of those surveyed believed the fight against terrorism should be "the principle objective" of the Spanish society in the next five years.⁶⁹ Terrorism again became the primary concern in Spain in the last months of 2002, at which time debate was raging as part of the larger decision to declare all political parties with terrorist ties illegal, which included *Herri Batasuna*, the so-called political wing of ETA. In October 2002, 65.4% were "in favor or very supportive" of "criminalizing *Batasuna*", compared

⁶⁶"El 53% cree que se logrará por fin acabar con el terrorismo", *El País*, 2 January 2000

⁶⁷"Los españoles apoyan la prudencia en el proceso de paz", *El País*, 8 February 1999

⁶⁸*Ibid.*

⁶⁹La intolerancia de los españoles con los inmigrantes creció durante el primer año de la Ley de Extranjería, según el CIS", *El País*, 24 January 2002

with the 52% who believed similarly in 1992,⁷⁰ and 56.2% believed that the measure would be a “very or fairly [important] advance” for the fight against terrorism.⁷¹ The degree of concern for terrorism then fell to its lowest percentage since September 2000 in January 2003. This was largely due to the *Prestige* oil spill off the coast of Spain which was viewed as an “ecological disaster”, and consequently, it seized some of the concern previously placed with terrorism as 28% of Spaniards identified the *Prestige* disaster as one of the main problems facing Spain.⁷²

Furthermore, while “*terrorism*” (emphasis added) declined percentage-wise on the list of principle problems plaguing Spanish society, the 2003 Iraq War climbed the list of concerns, which has obvious links to the greater U.S. “Global War on Terror”. In fact, in March 2003, the war in Iraq constituted the second most serious problem for Spaniards with 35.7% of those surveyed stating so, ahead of terrorism at a close 35.5%.⁷³ Therefore, in total, it can be stated that over 70% of Spaniards were concerned with some aspect of terrorism. Moreover, it was very apparent that Spaniards opposed the Iraq War not only from the beginning, but from the first mentions of possible “interventions” in Iraq. Interestingly, this could be considered the beginning of what was to come almost exactly one year in the future, as Spaniards tripled their support for the Spanish Socialist Workers’ Party (PSOE) just days after the 2003 Iraq War began.⁷⁴

⁷⁰“El 86% de los españoles se opone a que se acorten las penas a los terroristas, según un sondeo del CIS, *El País*, 8 July 1992

⁷¹“Dos de cada tres encuestados por el CIS rechazan una Guerra contra Irak”, *El País*, 30 October 2002

⁷²“Los españoles sitúan el desastre del ‘Prestige’ como tercer problema del país”, *El País*, 31 January 2003

⁷³“El PSOE saca al PP seis puntos de ventaja”, *El País*, 30 March 2003

⁷⁴ *Ibid.*

The Iraq War was not the last time during the research period in which public opinion was markedly volatile. Polls done exactly one month before the 11 March 2004 attacks in Madrid listed terrorism as the second most important problem in Spain for 36.4% of those polled, after, unemployment for 57.3%. However, in an opinion poll done by SER, the Spanish Society of Radio, days after the 11/M attacks and the general election on 14 March 2004, terrorism was once again cited as the main problem afflicting Spanish society by 62.5% of those asked, compared to unemployment with “only” 46.1%.⁷⁵ Furthermore, although immigration had been considered a problem, albeit minor, from time to time throughout the research period, after the 11/M terrorist attacks, immigration remained within the top four main problems afflicting Spanish society. Most of the time it was listed as a concern behind unemployment, terrorism, and the newly discovered Islamist terrorist threat, but it even topped the list in October 2005.⁷⁶

There is perhaps some just cause behind this concern, even if it does appear to have been somewhat late to occur. Several facts could have alerted the Spanish public to the increasing threat of extremist Islamic terrorism, but, for some reason, it did not appear to do so except on very rare occasions. According to Jordán and Horsburgh, for nearly 15 years before the 11/M attacks, dating back to the early 1990s, there was a “continued presence of individuals linked to jihadist groups in Spain”.⁷⁷ Additionally, many of the 9/11 hijackers had ties to Spain and several studies, including one released by Europol in December 2003, declared Spain’s involvement in the United States’ invasion of Iraq as an additional risk for Spain. Moreover, Al Qaeda released the document, “Jihadi Iraq,

⁷⁵“El PSOE parte con 10 puntos de ventaja sobre el PP”, *El País*, 23 March 2004

⁷⁶ *Instituto Opina* (Opinion Institute) surveys from May 2004, September 2004, December 2004, September 2005, and October 2005.

⁷⁷ Jordán, and Horsburgh, 209-229

Hopes and Dangers”, in December 2003 and it listed Spain as the “weakest link” in the U.S. Coalition Forces, claiming that the Spanish public would not tolerate more than two, maximum three, attacks before removing their troops from Iraq. Furthermore, this document *specifically* mentions the Spanish election period as a good time to strike. Regardless of these facts, Spaniards were not very concerned about immigration from Islamic countries or Islamist terrorism, or terrorism at all, in the months leading up to 11/M. This holds true even though those surveyed by the Center for Sociological Investigations, or CIS, in 2002 listed the “political instability of North African countries” as the top “focus of international conflict that could affect Spanish security”.⁷⁸ A CIS survey from November 2003 demonstrated that 40.6% of Spaniards believed that there were “too many” *Latin Americans* in Spain while the second, behind unemployment with 63.6%, most pressing problem for 40.7% of those surveyed was *ETA* terrorism.⁷⁹ ⁸⁰ Perhaps, even more telling is the fact that in February 2004, after the Al Qaeda and Europol publications, terrorism did not even figure into the main personal concerns of Spanish citizens.⁸¹

It should go without saying, but is worth mentioning, that terrorism has had a fairly permanent place in Spain as one of the major problems plaguing Spanish society.

⁷⁸“Dos de cada tres encuestados por el CIS rechazan una guerra contra Irak”, *El País*, 30 October 2002

⁷⁹“La vivienda es el tercer problema que más afecta a los ciudadanos, según el CIS”, *El País*, 23 December 2003

⁸⁰ This concern over Latin American immigration demonstrates that immigration in Spain, as in most other developed countries, is usually not considered problematic until either there are problems directly caused by those immigrants (e.g. terrorist attacks), which is not often the case, or when those immigrants are taking jobs that the native citizens need due to high levels of unemployment, which as has been previously addressed, has been a very important concern for Spaniards for a very long time.

⁸¹“El terrorismo vuelve a ser la principal preocupación de los españoles, según el CIS”, *El País*, 27 April 2004

This is due to a number of factors, including not only the continued threat of terrorism, primarily from ETA but increasingly from international terrorist groups as well, but additionally from new laws and declarations passed through Parliament, including: the very controversial debate regarding whether to reinstate the death penalty for terrorists,⁸² the quite controversial amnesty and reinsertion programs for repentant *etarras*, or members of ETA, the outlawing of political parties affiliated with terrorist groups, and the numerous ETA truces and ceasefires. Even with the permanence of terrorist violence and issues related to terrorism and terrorists, in the time frame of this research, there are some very noticeable highs and lows in Spanish public opinion regarding terrorism, which leads to the conclusion that the public in Spain has had, insofar as the public opinion data support, a quite volatile relationship with terrorism. It is also possible to state that the Spanish public opinion, at times, demonstrated an increased level of hostility, and disproportionality, especially regarding the debate surrounding and support for the possible reinstatement of the death penalty. Lastly, it is also true that throughout most of the research period, there was substantial agreement that the threat of terrorism was real, serious, and caused by the wrongdoing members and their behavior, which at times, especially in the aftermath of major terrorist attacks, was heightened.

⁸² It should be noted that while the reinstatement of the death penalty may appear fairly unimportant to some, or at least not appear to be an extreme or disproportionate measure, in the context of having previously abolished the death penalty based on arguments such as sentencing someone to the death penalty directly contradicts their right to life and even establishing a maximum prison sentence, the mere discussion of potentially reinstating the death penalty in Spain should be viewed as being an extreme response.

United Kingdom

For most of the research period, the United Kingdom, much like Spain, had a much higher level of concern for unemployment, and also taxes, than for terrorism. This does not, however, mean that the Irish Republican Army (IRA) was not an issue for the British, because it, indeed, was. Concern for the IRA and its activities, however, was not viewed as a major threat, unlike unemployment, until it (re-)emerged as the “predominant issue in British politics” in 1982.⁸³ One of the main additional reasons why the IRA never seemed to quite top the charts of public concern is because in 1988 two things happened. Firstly, the National Health Services started to be “consider[ed] [as] the most urgent problem facing the nation”,⁸⁴ and secondly, British officials acknowledged that “terrorism is no longer a national problem”.⁸⁵ Lastly, as in Spain, concern for the environment, second only to the poll tax, also topped the list of concerns facing British society for a brief time.

Perhaps what really sets British sentiment regarding terrorism apart from Spanish sentiment is that the IRA enjoyed a fairly decent amount of public support, much more so than ETA, especially in the beginning. It must be noted, however, that most of this support was directed toward the IRA’s “idealism”, 32% in 1978, and not a general approval or support which was only 2% in 1978.⁸⁶ Furthermore, the British public has fairly consistently supported talks between the British Government and the IRA, including, at times, Sinn Fein. Moreover, public support for talks between the parties

⁸³ Simpson, Jeffrey; GAM, “Unemployment top concern, U.K. poll finds”, *The Globe and Mail*, 24 September 1982

⁸⁴ DeYoung, Karen, “The British Love Their National Health Service; But Can It Survive?”, *The Washington Post* 15 March 1988

⁸⁵ “Bruges to Rhodes”, *The Times*, 26 September 1988

⁸⁶ “Provisional IRA warning of 10-year Ulster War”, *The Times*, 9 May 1978

steadily increased over time, from 43% in 1984, in favor of direct talks with Sinn Fein, to 51% supporting the inclusion of Sinn Fein in 1991, to 59%, of either party or both, in 1993, to 85% in the Republic and 56% in Northern Ireland in 1996 without a ceasefire, and 94% and 80%, respectively, with a ceasefire in place.⁸⁷

The apparent overwhelming support for talks should not be taken as is and without further consideration. It must be noted that the reason there existed so much support for talks between the British Government and the IRA, and later Sinn Fein, is because more than half of those who supported talks believed that they would lead to peace. Furthermore, the research also makes it apparent that the British society was not averse to the idea of using harsher methods in the pursuit of peace. Similar to the case of Spain, the British public largely supported reinstating the death penalty for terrorists, which is evident by the fact that support for reinstating the death penalty for terrorists stood at 70% in 1982, and at 93% in 1983.⁸⁸

No analysis of British public opinion would be complete without mentioning the withdrawal of British forces from Northern Ireland. According to *The Times*, “every opinion poll taken in Britain since the present troubles has shown a majority in favour of withdrawal from the province”.⁸⁹ While this quote is from 1986, it completely captures the public’s sentiment in favor of the withdrawal of British forces from Northern Ireland,

⁸⁷Johnson, Paul, “Support in poll for talks with IRA/Opinion poll on British attitudes to Ulster”, *The Guardian (London)*, 27 August 1984; “Poll calls for return of internment to halt sectarian killings”, *The Observer*, 20 October 1991; “Poll Questions Ulster Link: Most want talks with Sinn Fein if violence renounced – Major tells Unionists he will not accept joint sovereignty”, *The Guardian (London)*, 10 November 1993; “Momentum for talks builds as Major joins ‘right’ side; Irish peace process: PM makes IRA an offer it will find hard to refuse”, *The Independent (London)*, 1 March 1996

⁸⁸“Police drop plan to issue IRA Photofit picture”, *The Times*, 26 July 1982; “Retributive Justice”, *The Times*, 20 June 1983

⁸⁹“After Brighton what next for Belfast?”, *The Times*, 16 October 1986

which only increased with the passage of time. Another example of the attitude most in the U.K. held toward Northern Ireland is the following excerpt:

“We’ve done 10 polls over the last 15 years.” Said Mr. Worcester [of the polling firm Market & Opinion Research International]. “They show that the British public don’t lay awake nights worrying about Northern Ireland. They lay awake worrying about their jobs, whether their car will be stolen, or about the National Health Service.” After 25 years of bloodshed, in which hundreds of British soldiers lost their lives, polls indicate most people in Britain would be happy if Northern Ireland drifted away across the Atlantic. “They seem more concerned about it in Boston than in Britain,” Mr. Worcester said of Northern Ireland.⁹⁰

Another noticeable aspect of public opinion data in the U.K. regarding the IRA is that there is a definite link between governmental policies and views and the public’s opinion or view of the IRA and levels of violence. For example, in 1985, when asked, “If present policies continue unchanged, do you think people will become more attracted or less attracted to revolutionary violence?” 62% replied “more”, and to the question “Do you think acts of political terrorism in Britain will be more or less common?” 52% replied “more”.⁹¹ Additionally, when the August 1994 ceasefire broke down, an opinion poll “indicated that more than 70% of people in the [Irish] Republic held the British government responsible for the collapse of the ceasefire”.⁹²

In the aftermath of the 7 July 2005 (7/7) and 21 July 2005 attacks in London, opinion polls found a large majority of citizens in favor of Britain’s new or updated counterterrorism measures, including the proposed 90-day detention for suspected terrorists. This, however, is only one example of the long “habit of home secretaries (of

⁹⁰“Truce unlikely to benefit Major Britain/IRA’s ceasefire announcement probably won’t help PM’s low popularity rating because, pollster says, the British public doesn’t care deeply about events in Northern Ireland”, *The Globe and Mail*, 2 September 1994

⁹¹“Now the rifts appear in the Tory ranks”, *The Times*, 2 March 1985

⁹²“Momentum for talks builds as Major joins ‘right’ side; Irish peace process: PM makes IRA an offer it will find hard to refuse”, *The Independent* (London) , 1 March 1996

both parties) to use the results of public opinion polls ... to ease the passing of controversial decisions and legislation, especially when their intent is to diminish rights and civil liberties”.⁹³

Quotes such as “terrorism is no longer a national problem”⁹⁴ compared with ones such as “the Northern Ireland problem is clearly the most serious human problem facing the British Government”,⁹⁵ demonstrate that the public opinion regarding IRA terrorism has been quite volatile. In the British experience, moreover, if a comparison is made between what the public has to say about governmental policies both before and after the 7/7 attacks in London, it would appear as if there may be a disproportionate response to the 7/7 attacks, even though public opinion polls were used to pass legislation both before and after the attacks.

In concluding this section, an examination of the data is necessary to help determine if the theory of moral panics will be useful in explaining the divergence between the British and Spanish state responses to incidents of terrorism in their respective countries.⁹⁶ From the examination of Spanish public opinion data, it is quite obvious that terrorism has been one of the top, and most widespread, concerns for the Spanish citizenry throughout the research period. There have also been some very noticeable increases and decreases regarding the concern for terrorism, reflecting volatility. The unwillingness of the Spanish public to re-integrate terrorists into society,

⁹³“All politicians want to be popular with voters. But rule by opinion poll is not what democracy is about”, *The Guardian* (London), 9 November 2005

⁹⁴ *Supra* note 78

⁹⁵“Let’s go all out for agreement”, *The Observer*, 18 May 1997

⁹⁶ The indicators of a moral panic according to Goode and Ben-Yehuda are: a heightened level of concern, an increased level of hostility, substantial or widespread agreement or consensus that the threat is real, serious, and caused by the wrongdoing group members and their behaviour, disproportionality, and volatility (33-41).

without them having completed their full prison sentences, and moreover, the vast support at times for arguably disproportionate counterterrorism measures such as the reinstatement of the death penalty demonstrate that there was, at various points during the research period, an increased level of hostility toward the terrorists. An additional example of this is the vast public support for criminalizing the Basque political party and so-called political wing of ETA, *Herri Batasuna*. Public opinion in Spain, therefore, reflects all five indicators of a moral panic.

Turning now to the British public opinion data, it must first be stated that the British citizenry appears to have had a lesser amount of concern for terrorism than their Spanish counterparts, although terrorism is still a notable concern for the British public, at times even becoming volatile. Moreover, much like the Spanish case, this concern, at times, reveals the presence of an increased level of hostility toward terrorists regarding policies such as detention or imprisonment and the death penalty. Although the IRA terrorists enjoyed a higher level of public support for their cause than their ETA counterparts did, making it appear as if the criterion of “substantial or widespread agreement or consensus that the threat is real, serious, and caused by the wrongdoing group members and their behaviour” is not met, the converse is actually true. This is due to the fact that although the IRA enjoyed a higher level of public support than ETA, a significantly larger percentage of the British populace still disapproved of the IRA and its actions. Lastly, there is some evidence of disproportionality present in the British public opinion data on terrorism, especially regarding the consideration of measures such as the reintroduction of the death penalty.

In summary, evidence from public opinion data, especially regarding the support for the reinstatement of the death penalty and the criminalization of certain political parties offers support for the argument that moral panics were present in both of the case studies.

Chapter 2: Action Groups Data

While it is true that a democratic government must be held responsible to its citizenry, it is also true that many citizens of democratic countries do not participate in government, or at least not directly, and even those who do directly participate (e.g. by voting in elections) can have their voices fade without the right amount of pressure. As a collective voice is louder than an individual voice, action groups can serve as a means to ensure that the voice of the public is heard.⁹⁷ For this reason, an examination of action groups in both Spain and the United Kingdom is included in the attempt to further understand the role that the public plays in shaping democratic states' counterterrorism policies. Much like in any democratic country, British and Spanish action groups are vastly diverse and advocate for a variety of different causes; however, for purposes of this thesis only those actions groups related to the British and Spanish battles against terrorism are discussed. As examined below, these groups have voiced their opinions, in a variety of ways, on many of the prominent issues found in the research on British and Spanish counterterrorism responses. Furthermore, and while it should go without saying that no action group can be successful in all of its endeavors, some action groups have

⁹⁷ For purposes of this thesis, "action groups" are defined as an organized association, group, or organization which attempts to influence the government regarding certain actions or policies; these can be similar to the lobbies found in the United States. Furthermore, due to the fact that there is a vast number of action groups present in the research cases, some of which are founded in the name of a single victim of terrorism, only a limited number of action groups are discussed in this thesis due to their influence or size or for the purpose of example or explanation.

had or contributed to considerable success in aiding victims of terrorism and, overall, helping their societies to overcome the threat of terrorism.

Spain

As mentioned above, Spanish action groups have expressed their views and voiced their opinions on many of the topics found in the research of the Spanish state response to terrorism that were previously discussed. These topics include: the possible reintroduction of the death penalty, hosting dialogues with ETA, the Spanish policy of reinsertion, and criminalizing *Herri Batasuna* (HB). Each of these topics is addressed below.

As discussed above, the potential reinstatement of the death penalty was a quite controversial or polemical topic. Not unsurprisingly, many of the associations in favor of the protection of human rights, including Amnesty International, were strongly opposed to the possible reinstatement of the death penalty. What is perhaps more surprising is the fact that many of the victims of terrorism and family members of the victims were opposed to the death penalty as well.⁹⁸ This is important to note because not only are the action groups supposed to be the voice of the victims but, moreover, due to the fact that some of the victims of terrorism became involved in the action groups only after their personal experiences with terrorist violence, and hence, brought their beliefs and sentiments along with them, they could, therefore, easily influence the different action groups. A similar situation is found regarding the case of holding a dialogue or negotiating with ETA. For example, a father whose son was an ETA militant killed in a

⁹⁸ Nogueira, Charo, “Después del funeral”, *El País*, 27 May 1990

confrontation with the Spanish *Guardia Civil*, said regarding holding a dialogue with ETA, “I am against ETA, but a supporter of anything before they continue killing”.⁹⁹

Turning now to the criminalization of *Herri Batasuna*, many of the action groups, especially the *Asociación de Víctimas del Terrorismo*, the Association of Victims of Terrorism or AVT, were very much in favor criminalizing ETA’s alleged political wing. In fact, the *Asociación de Víctimas del Terrorismo* requested the criminalization of HB through a complaint to Judge Baltasar Garzón.¹⁰⁰ More importantly, two of AVT’s lawyers at the time stated to Ismael Moreno, a judge in the *Audencia Nacional*, the Spanish National Court, that “it would be difficult to establish a direct connection between ETA and HB, for which legal rodeos [stretches of the truth]¹⁰¹ would have to be devised to demonstrate this possible link”.¹⁰² This quote illustrates the Association’s determination to outlaw HB, even if it meant using questionably legal loopholes or maneuvers. It should be noted that some of the action groups were not only concerned with the criminalization of *Herri Batasuna*, but instead, some groups, such as *La Federación Provincial de Asociaciones de Vecinos* or the Provincial Federation of Neighborhood Associations, advocated for the criminalization of *all* political parties of the extreme right.¹⁰³ This reflects what can, perhaps, be considered a disproportionate

⁹⁹ “Víctimas de la violencia reclaman diálogo con ETA para conseguir la paz de Euskadi”, *El País*, 28 December 1991

¹⁰⁰ “Los jueces temen ‘hincar el diente’ a HB, según Víctimas del Terrorismo”, *El País*, 4 June 1990

¹⁰¹ According to Larousse’s *Diccionario manual de la lengua española*, a “rodeo” is defined as: “an indirect manner of doing or getting something in order to avoid difficulties; a manner of saying something without the necessary clarity, or avoiding telling the truth”.

¹⁰² Barbería, J.L., “El etarra Pipe niega ante el juez la conexión de HB y ETA”, *El País*, 29 September 1995

¹⁰³ “8.000 personas rindieron homenaje en Vista Alegre a las recientes víctimas de los ‘ultras’”, *El País*, 13 May 1980

response, or at least the attempt of such, given the fact that not all of the political parties of the extreme right had any affiliation, alleged or otherwise, to any terrorist organization.

The last issue to discuss here concerns the reinsertion of prisoners convicted of terrorist offenses. This topic also offers one of the best examples of how different action groups held competing beliefs on a number of topics, including that of the reinsertion policy. Javier Concuera Atienza, a member of *La Asociación Pro Derechos Humanos del País Vasco*, the Pro Human Rights Association of the Basque Country, perhaps not surprisingly, voiced the belief that reinsertion “had been demonstrated to be one of the appropriate measures” to obtain a “democratic and peaceful coexistence”.¹⁰⁴ On the other hand, members of the *Asociación del Víctimas del Terrorismo* stood firm in their conviction that the reinsertion of prisoners should not happen, which they believed for a number of reasons, including as according to Paulino Baena, former spokesman of the AVT, that “the policy of reinsertion of *etarras* is a response in an attempt to justify the movement of Amedo and Domínguez to third grade to avoid ‘possible revelations’”.¹⁰⁵

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One of the principle reasons why action groups such as the AVT were so adamantly opposed to the policy of reinsertion was because they were against the reduction of prison sentences that accompanied the reinsertion. To illustrate, the AVT rejected “any measure that ‘benefit[ed]’ the *etarras*, and ask[ed] for the complete

¹⁰⁴ Corcuera Atienza, Javier, “Cultura de la paz”, *El País* (reprinted from *La Tribuna*), 15 September 1994

¹⁰⁵ “Críticas de asociaciones de jueces y apoyo a Clemente Auger”, *El País*, 27 July 1994

¹⁰⁶ “Third grade” is a degree of sentencing in which prisoners are afforded more freedom, in most cases prisoners are permitted to leave during the day but must return to the prison at night and can also have free weekends; the prisoners are supposed to use their free time to obtain a job, which is almost always a requirement for them to be fully released. In other words, “third grade” is similar to a work release from prison.

fulfillment of the convictions given by the *Audencia Nacional*".¹⁰⁷ Additionally, as stated by an AVT Catalanian delegate, "it is incomprehensible that a terrorist is condemned to a sentence of including hundreds of years and after seven or eight years they are already out on the streets".¹⁰⁸ Perhaps the best way to demonstrate how vehemently opposed the AVT was to the policy of reinsertion is the fact that they were able to collect nearly 1,100,000 signatures asking "for the complete fulfillment of the sentences, so that terrorists fulfill their sentences and with the constitutional limit of 30 years of prison".¹⁰⁹

While the collection of more than a million signatures in favor of their position regarding the policy of reinsertion was a huge accomplishment for the AVT, as it would be for any action group, perhaps the best evaluation of the role played by Spanish action groups in influencing public opinion is through the numerous demonstrations they organized. These demonstrations largely occurred in the main Spanish cities (e.g. Barcelona, Madrid, Pamplona, etc.) but were also present throughout the country, and were held in support of, or against, a number of different issues related to terrorism. A few examples of these demonstrations include: demonstrations against certain proposed pieces of legislation, against terrorist attacks on businesses and the revolutionary tax, and general demonstrations in favor of peace. Looking first at demonstrations against proposed legislation, when "*la Ley de Seguridad Ciudadana*", the Law and Order Act, was proposed, between 7,000-15,000 people in Madrid demonstrated against the

¹⁰⁷ Intxausti, A., "Libertad provisional para dos presos de ETA", *El País*, 17 January 1990

¹⁰⁸ Agencias, "Las Víctimas, contra la reinserción", *El País*, 22 February 1993

¹⁰⁹ "Un millón de firmas para exigir que los terroristas cumplan íntegras las penas", *El País*, 16 March 1995

proposed law due to it being “the most serious attack against the Constitution since its birth”.¹¹⁰

While it may seem unusual for businesses to organize demonstrations against terrorism, in Spain they have a vested interest in doing so given the fact that ETA has repeatedly targeted them in at least two ways. The first way is through the imposition of the “revolutionary tax”, which ETA would demand from business owners to help fund their operations, and any refusal to pay this “tax” could lead to kidnapping, and subsequently, ransom demands, or even to the threat of their murder or that of a family member. It is important to note that this “revolutionary tax” is unlike any other tax in which small denominations are usually taken, because, on the contrary, ETA earned a substantial amount of money via their “revolutionary tax” revenues. For example, in only two of the numerous examples of “tax collections”, ETA demanded that Miguel Juareguiberri pay 30 million pesetas (\$258,501.53), and that a further two entrepreneurs, Fransico Irazusta and Jacinto Irogoyen, pay 25 million pesetas (\$215,417.94).^{111 112} The second way in which ETA targeted businesses was by directing their attacks against specific sectors, namely the tourism industry. Consequently, this hurt businesses economically, if not also physically, aggravating, for example, “even more so the difficult situation of unemployment in Andalucía”, a major tourist destination.¹¹³ An additional example of a demonstration held, at least in part, by businesses is that of a demonstration

¹¹⁰ Ruiz de Azúa, Victorino, “Los convocantes de la manifestación contra la Ley de Seguridad piden al Parlamento que la rechace”, *El País*, 11 November 1991

¹¹¹ J.M.L., “Un empresario respalda al abogado que le ayudo a pagar a ETA el ‘impuesto revolucionario’”, *El País*, 21 April 1993, and Larrauki, Eva, “Dos empresarios acusan a Iruin en el Supremo de mediar en el chantaje etarra”, *El País*, 5 May 1994

¹¹² The Spanish peseta was the Spanish unit of currency before the adoption of the Euro in 1999; one Euro is equal to 166.386 ESP.

¹¹³ “Comisiones Obreras de Andalucía denuncia el terrorismo de ETA”, *El País*, 8 July 1979

held in the aftermath of an ETA attack against a commercial center in Barcelona, in which some 70,000 people participated.¹¹⁴

Perhaps the action group most involved in hosting demonstrations is *Gesto por la Paz de Euskal Herria* or Gesture for the Peace of the Basque Country. This action group is responsible for organizing numerous demonstrations including a memorable three-kilometer (1.86 mile) human chain in Pamplona in which some 7,000 people attended to “Join the peace”.¹¹⁵ An additional example of their demonstrations is one that was held annually to commemorate the anniversary of Gandhi’s death in which between 40,000-150,000 people participated.¹¹⁶

To conclude this discussion of demonstrations, it is imperative that what is perhaps the most well-known demonstration in Spanish history be addressed, that of the demonstration held in the aftermath of the 11/M terrorist attacks in Madrid. Given the fact that a mere three days after the attacks elections were to be held, an additional sense of urgency existed to discover the perpetrators of the attacks, and for this reason on the 13 March 2004, “after 6pm, some 5,000 people, convened via mobile messages [SMS or text messages], concentrated before the PP headquarters [in Madrid] ... shouting: ‘Before voting, we want the truth’”.¹¹⁷ While perhaps in light of some of the other demonstrations discussed above 5,000 attendees does not appear to be a large number, given the facts that this demonstration was truly publically driven via text messages, that demonstrations

¹¹⁴ “Unos 70.000 barceloneses acuden a la marcha contra el terrorismo convocada por entidades ciudadanas, *El País*, 22 June 1987

¹¹⁵ Muez, Mikel, “Cadena humana de tres kilómetros contra el terrorismo en Pamplona”, *El País*, 28 January 1991

¹¹⁶ See for example: Gorospe, Pedro, “Miles de personas exigen la paz en Bilbao, *El País*, 31 January 1993 or G., P., “Miles de personal recorren el centro de Bilbao para exigir el fin del terrorismo”, *El País*, 6 February 1994

¹¹⁷ “La indigestión de la crisis”, *El País*, 13 March 2005

against the 11/M attacks were held the day before, and that it was indeed illegal for the demonstration to take place, this demonstration is all the more significant.¹¹⁸

The last aspect of action groups to be discussed is that of their successes. As mentioned above, Spanish action groups have not been successful in all of their attempts, often because many of the action groups had opposing views on many of the topics discussed. However, Spanish action groups have had a number of significant achievements, some of the most important of which include: working with universities to offer scholarships to victims of terrorism, influencing the establishment of a governmental office for the assistance of victims of terrorism, and advocating for the collection and distribution of indemnifications for the victims of terrorism or their family members. Regarding offering university scholarships to victims of terrorism, the AVT and the *Universidad Complutense de Madrid* created a special statute to offer, *inter alia*, free tuition, scholarships, and psychological care to those affected by terrorism.¹¹⁹

Perhaps the action groups' most important successes were those that led to the disbursement of millions of dollars worth of indemnifications to victims of terrorism or their family members. It should be noted that the AVT and other action groups were not solely responsible for the collections of indemnifications and that the Spanish government, and later the Council of Europe, also required indemnifications but, nonetheless, the AVT and other action groups were instrumental in a number of ways in obtaining these collections.¹²⁰

¹¹⁸ The demonstrations were considered illegal due to the fact that Spanish Electoral Law prohibits political demonstrations the day before elections.

¹¹⁹ "La Complutense crea un estatuto especial para las víctimas del terrorismo, *El País*, 4 May 1990

¹²⁰ The European Convention on the Compensation of Victims of Violent Crimes agreement (agreement 116 of the Council of Europe of 24 November 1983) requires all signatory states to

One of the principle ways in which the AVT in particular was able to help victims of terrorism and their families collect indemnifications was by beginning “legal actions to make freed terrorists have to start compensating for the economic debt that they have with their victims” in which they asked the Prosecutor of the *Audencia Nacional* to garnish the wages of freed *etarras* that had a paying job.^{121 122} However, perhaps none of these recouped indemnifications would have been possible without the AVT’s creation of a foundation, under their same name, that had the specific aim to seek funds for the “moral and economic help” of the victims of terrorism and their families.¹²³ In many ways this office was the precursor to the Spanish Minister of Interior’s creation of the Office of Assistance to Victims of Terrorism. The AVT had much to do with the establishment of this Spanish government level office dedicated to victims of terrorism considering they had advocated for indemnifications for nearly 15 years before its establishment and the fact that “the creation of this center occurred after the Ombudsman, Fernando Álvarez de Miranda, recommended, in his annual report before the Courts the 19th of June, a revision of the existing legislation on state indemnifications for acts of terrorism”.¹²⁴

establish economic aid for those affected by criminal violence. Full text of the treaty can be found here: <http://conventions.coe.int/Treaty/EN/Treaties/HTML/116.htm>

¹²¹ I., A., “Kubati asegura en ‘Egrin’ que sigue apoyando de forma total la lucha armada”, *El País*, 14 August 1994

¹²² M. L., J. “Víctimas de ETA piden a la Fiscalía que se embargue el sueldo a 44 terroristas, *El País*, 29 June 1995; see also “La Audiencia Nacional intenta que los etarras en tercer grado paguen la indemnización a sus víctimas”, *El País*, 10 August 1994 and “El fiscal pedirá que se embargue el sueldo a etarras reinsertados para que indemnicen a sus víctimas”, *El País*, 7 September 1994

¹²³ S.-M., L., “500 Víctimas del terrorismo crean una fundación para recabar fondos”, *El País*, 13 November 1990

¹²⁴ “Interior crea una oficina para asistir a las víctimas del terrorismo”, *El País*, 8 July 1996

To conclude, from the review of the data regarding Spanish action groups, it can be stated with certainty that they were able to influence not only public opinion, by collecting petition signatures and organizing demonstrations or marches, but also policy making, especially that of collecting indemnifications for the victims of terrorism. It is also apparent that with the case of the criminalization of *Herri Batasuna*, for example, the action groups themselves did, at times, use or support questionably legal means to achieve their goals, which is, perhaps, explainable, however, not justifiable, due to the fact that many of the members of the action groups had been victims of terrorism themselves. Regardless of the logic behind their methods, while the action groups did not exhibit much volatility, which is perhaps due to the fact that a large number of action groups, representing different views were present in Spain, it is evident that a number of action groups did express a heightened level of concern, an increased level of hostility, and, again, although there was some contention among the different action groups, substantial or widespread agreement or consensus that the threat is real, serious, and caused by the wrongdoing group members and their behavior, and disproportionality, especially with regard to criminalizing political parties, or aiming to do so. In other words, the examination of the data on Spanish action groups shows some evidence of four of the five indicators of a moral panic.

United Kingdom

British action groups have expressed their views and voiced their opinions on many of the same topics found in the research of the British state response to terrorism that were previously discussed. The following focuses, however, on some additional

aspects of the topics previously addressed such as the numerous examples of legislative and security measures that were introduced to help combat the threat of terrorism and the importance of international cooperation in the fight against terrorism. Additionally, topics not previously discussed such as advocating for victims of terrorism to receive monetary or other support, demonstrations or protests, and prisoners' rights are discussed.

Much like in the case of Spain, and other democratic countries, one of the principal ways in which action groups in the United Kingdom expressed their beliefs was through organizing demonstrations or protests. These demonstrations were held for a number of reasons, but a primary reason was to express dissatisfaction with the different legislative and security measures that the government was debating or enforcing, especially regarding internment and the lack of inquiry, or independent inquiry, into alleged ill treatment, or even torture, of prisoners. It must be noted that in the case of the United Kingdom, organizing, or even attending, protests is especially important due to the fact that emergency legislation regarding the situation in Northern Ireland had made marches illegal and, therefore, attendees or organizers could be, and at times were, arrested and prosecuted which, furthermore, even extended to a number of members of Parliament.¹²⁵ Moreover, the protests were significant because they did contribute to a number of successes such as getting the British and Irish governments to abandon a plan "to introduce legislation allowing on-the-run (OTR) terrorists to return to Ireland and benefit from an amnesty".^{126 127} It is also worthwhile to mention that just as action groups

¹²⁵ Chartres, John, "Ulster demonstrators plan further civil rights marches", *The Times*, 30 November 1970; Jones, Tim and Walker, Christopher, "MPs among 30 to be prosecuted after peaceful march by 25,000 in Newry", *The Times*, 7 February 1972

¹²⁶ Clarke, Liam, "Orangemen plan Dublin 'love parade'", *The Sunday Times*, 11 December 2005

¹²⁷ This amnesty would have permitted terrorists who were currently "on-the-run" to return to Ireland and receive an amnesty similar to that provided for others under the ceasefire agreements.

in the U.K. organized a number of marches, they also were responsible for cancelling them. For example, the Northern Ireland Civil Rights Association (NICRA) successfully pled for the cancelation of a civil rights march that was planned against the sending of additional British troops into Northern Ireland in the aftermath of a terrorist attack.¹²⁸

To further examine the responses of British action groups to proposed or enacted legislative or security measures the topics of internment or detention without trial and allegations of ill treatment or torture and how they relate to violations of civil liberties are reviewed. Many of Britain's action groups were founded solely to protect civil liberties (e.g. the British Irish Rights Watch, the National Council for Civil Liberties, Northern Ireland Civil Liberties Association, etc.), and while other groups advocated for the protection of civil liberties as well, these associations in particular questioned and condemned the practice of internment. Much like in the Spanish case in which a number of the members of different associations had been personally affected by terrorist violence, a number of these civil liberties advocates personally experienced internment and, therefore, knew what the conditions were like which, perhaps, caused them to be more critical than they might otherwise have been.¹²⁹

Action groups were also passionate about attempting to condemn the government for its actions or inactions regarding allegations of torture. They were not, however, always successful in achieving this at a governmental level, which led some U.K. action groups to take their cases to the European level. One such example was when the Relatives of Bloody Sunday Victims and the British Irish Rights Watch took their case to "the European Commission on Human Rights [ECtHR], after the British government's

¹²⁸ "More British troops going to Ulster", *The Times*, 26 April 1969

¹²⁹ "10 released internees criticize jail conditions", *The Times*, 15 September 1971

refusal to reopen inquiries into the [Bloody Sunday] killings”.¹³⁰ An additional example regards British Irish Rights Watch, the Committee on the Administration of Justice (CAJ), Inquest, and Liberty (previously the National Council for Civil Liberties) taking the case of the 1988 killings in Gibraltar to the European Court of Human Rights (ECtHR) to determine if the shooting “breached Article Two of the European Convention on Human Rights [ECHR] which guarantees the right to life”.¹³¹ It is worthwhile to mention that some of the action groups were not satisfied with trying individual soldiers for their actions and instead called for the government to be condemned for its actions. For example, according to NICRA, “individual soldiers who carried out their orders are not to blame, but rather the Prime Minister of the day and his Cabinet who took the decision to use torture. These are the guilty men who must be punished.”¹³² In sum, while only a small amount of action groups took cases to the European level, it does attest to the fact that these associations were not going to stop until they had done all they possibly could have to get justice for the victims and, more importantly, that they had the support to do so.

It should also be mentioned that a number of U.K. action groups, were adamant in their belief that civil rights applied to all, and as such, should be protected for all, which included prisoners. One of the reasons why some action groups advocated for the protection of civil liberties of prisoners is because according to them, “the real victims...

¹³⁰ Grogan, Dick, “Relatives of Bloody Sunday victims take campaign to Europe”, *The Irish Times*, 17 March 1994

¹³¹ Gibb, Frances, “Britain accused over Rock deaths, *The Times*, 21 February 1995

¹³² Seton, Craig, “Irish Government justifies pursuit of case by claiming use of torture is now outlawed in Ulster”, *The Times*, 19 January 1978

have been the families and relatives of the prisoners”.¹³³ This statement was made regarding the use of the “Special Secure Units” which “provide a very restricted setting in which prisoners often remain confined for many years”, and demonstrates that however much the families of prisoners grieved over knowing their loved one was in such a cell, that the action groups were also concerned about how the prisoners were housed and their overall well-being.¹³⁴ Organizations such as Relatives for Justice were especially concerned for the well-being of prisoners during the hunger strikes of the 1980s which was attributed to the fact that some of the prisoners’ convictions were based on “uncorroborated testimony”, and called “for emergency legislation to ensure there are no further convictions on uncorroborated testimony” which they hoped could be passed and then applied retroactively.¹³⁵ Lastly, it must be noted that one of the principle reasons why the action groups advocated for the rights of prisoners is due to the fact that a report published by numerous groups including: British Irish Rights Watch, the Committee on the Administration of Justice, the Irish Council for Civil Liberties, and Liberty (National Council for Civil Liberties) claimed, “the prisoners’ issue ... must be central to the peace process”, and that “the current Home Office treatment of prisoners is actually damaging and destabilising the peace process”.¹³⁶ In other words, some action groups believed the fate of the peace process rested on the treatment of the prisoners and, therefore, they took the conditions of their treatment quite seriously.

¹³³ Winter, Jane, “Letter: Denial of prisoners’ rights overshadows hope for peace”, *The Independent (London)*, 5 September 1994

¹³⁴ Winter, Jane, “Letter: Harsh life for republican prisoners”, *The Independent (London)*, 15 September 1994

¹³⁵ Rodwell, Bob, “Third INLA terrorist begins hunger strike at Maze prison/Thomas Power joins protest in Ulster”, *The Guardian (London)*, 3 January 1986

¹³⁶ “Repatriating Prisoners”, *The Irish Times Letters to the Editor*, 15 August 1997

One of the other main concerns of many of the action groups in the U.K. was to improve the lives of the victims of terrorism. This was done in a variety of ways including providing housing and campaigning or lobbying to receive aid, monetary and otherwise, to help the victims. One of the major action groups committed to obtaining the funds necessary to help victims of terrorism is the National Association of Victims Support Schemes.¹³⁷ This association has arguably been quite successful at lobbying for additional funds, or at least not a reduction in funds, and the fact that “Labour would discuss with the National Association of Victim Support Schemes what sums they needed to provide services they regarded as essential” demonstrates the influence the Association could, and often did, exert.¹³⁸ An additional example of the influence the National Association of Victim Support Schemes could exert is demonstrated by the fact that it was recognized that “victim support schemes were ‘one of the most helpful developments of recent years’”.¹³⁹ Moreover, much like in the Spanish case, in the U.K. convicted terrorist offenders are liable for having to pay indemnifications to their victims. However, this would not entirely ease the financial burden of assisting the victims, due to the fact that, as Martin Wright, of the National Association of Victim Support Schemes, noted,

¹³⁷ The National Association of Victims Support Schemes is an association dedicated to helping victims of all crimes, under which terrorism applies.

¹³⁸ “Parliament: Government blamed for worst crime wave/Law and Order”, *The Times (London)*, 22 July 1986; For preventing the government from cutting funds see for example: Gibb, Frances, “Scheme to save 16 million pounds on criminal injury pay-outs is abandoned”, *The Times (London)*, 5 September 1986

¹³⁹ Cook, Stephen, “Victims of crime ‘need complaints centres’/Recommendations by all-party committee”, *The Guardian (London)*, 13 December 1984

“the problem is that offenders sometimes cannot pay” and as such the Association would continue to lobby for government support.¹⁴⁰

While the topic of international cooperation has been previously discussed, it also merits exploration in the discussion of action groups. While it is true that cooperation among democratic governments is commonplace, the notion of action groups actively seeking to achieve its aims by cooperating with other action groups is not as common. However uncommon it may be, the logic behind their desire for collaboration was such that “if you have an international network of [terrorists] exchanging training and expertise [then] why can’t you have an international network of victims working to help each other?”.¹⁴¹ As such, the Families Acting for Innocent Relatives (FAIR) partnered with *Fundación Colombia Herida*, Wounded Colombia Foundation, to petition the Colombian government to extradite the “Colombian three” and to “lobby for the Colombian government to fund members of *Colombia Herida* to visit Ireland so that they can lobby the Irish government”.^{142 143}

In conclusion, British action groups, have been successful in achieving an improvement in the lives of victims of terrorism through economic and other forms of aid, and in assisting and maintaining the integrity of the democratic system by protesting against legislative or security measures that could curtail civil liberties, and by ensuring

¹⁴⁰ Jackson, Charles, “Family Money: Cheques for the victims – The latest [statistics] may have shown an overall rise of just 1 per cent in crime but violent attacks on people rose last year by 12 per cent”, *The Times (London)*, 9 April 1988

¹⁴¹ Clarke, Liam and O’Brien, Stephen, “Donaldson campaign’s for Colombia three’s extradition”, *The Sunday Times*, 4 September 2005

¹⁴² *Ibid.*

¹⁴³ Wounded Colombia is an organization dedicated to helping and serving members of the Colombian Armed Forces who have been injured and their families. For more information, see: <http://www.fundacioncolombiaherida.org/>. The “Colombian three” refers to three men who were alleged to be members of the IRA who trained members of the FARC, the Revolutionary Armed Forces of Colombia.

that those who used these questionable or illegal methods or those who were responsible for others using them, faced the consequences of their actions or inactions. Furthermore, from the review of the data regarding the British action groups, it can be stated with certainty that they were able to influence not only public opinion, by, for example, organizing or calling for the cancelation of demonstrations or marches, but also policy making, especially with regard to collecting indemnifications for the victims of terrorism. While British actions groups did not exhibit much volatility, it is evident that a number of action groups did express a heightened level of concern, an increased level of hostility, and, although there was some contention among the different action groups, substantial or widespread agreement or consensus that the threat is real, serious, and caused by the wrongdoing group members and their behavior and disproportionality. In other words, the examination of the data on British action groups shows evidence of four of the five indicators of a moral panic.

Chapter 3: Statements of Heads of Government and Opposition

As evident by the countless definitions proposed by scholars, democracy can be a difficult concept to define. Larry Diamond, for example, defines a liberal democracy as “a political system in which individual and group liberties are well protected and in which there exist autonomous spheres of civil society and private life, insulated from state control”.¹⁴⁴ Adam Przeworski alternatively defines an electoral democracy as “a civilian, constitutional system in which the legislative and chief executive offices are filled through regular, competitive, multiparty elections with universal suffrage”.¹⁴⁵ These definitions of democracy are included to stress the importance of the public in democratic states. For purposes of this thesis a democracy is defined as including the following: free, fair, and contestable elections with universal suffrage; the freedom of expression and representation regardless of ethnicity, gender, age, occupation, sexual orientation, religion or any other factor; freedom of speech, belief, and opinion and the right to legally voice opposition through individual or collective action, and to have it heard through multiple channels; respect for civil liberties, and equality and protection under the law. Furthermore, many scholars consider a parliamentary system of government, the system in both Britain and Spain, the preferential form of governance because, compared to presidential systems, it is believed to be more stable and to offer “a

¹⁴⁴ Diamond, 7

¹⁴⁵ Diamond, 10

better hope of preserving democracy”^{146,147} If counterterrorism policies are alleged to be in contrast with democratic principles this could severely damage the reputation parliamentary governments have earned.

Lawmakers and politicians have fairly self-explanatory roles to fulfill in a democracy; those of creating laws and of implementing policy. According to Goode and Ben-Yehuda, both lawmakers and politicians, however, can play an additional role, that of creating a moral panic.¹⁴⁸ This section reviews statements made by members of government, from both the ruling and opposition parties, in an attempt to account for what role, if any, lawmakers and politicians have played in creating a moral panic in Spain and the United Kingdom.¹⁴⁹ As the previous section on public opinion makes apparent, both ETA and the IRA have enjoyed varying levels of public support. For the purpose of this section, it is necessary to focus on the role played by lawmakers and politicians in recognizing this public support and the greater role of the public and how it affects lawmakers and politicians and their actions.

Spain

One of the most dominant themes found in the research of statements from Spanish heads of government and opposition regarding terrorism refers to democracy and the affects terrorism has, or could have, on democracy, most notably, the fear that

¹⁴⁶ Dahl, 16

¹⁴⁷ Dahl, 258

¹⁴⁸ Goode and Ben-Yehuda, 24

¹⁴⁹ The two terms “lawmakers” and “politicians” are included in this write-up and thesis due to the nature of the political process. It is evident that elected politicians have the ability to create laws but the two terms are used to include those politicians who run for office but who are unsuccessful in their attempt.

terrorism is going to, or could, overthrow the democratic system in Spain. Statements expressing this concern are just as common in the first years of the new democracy in Spain as they are into the 21st century. Statements such as, “it is classic to give in situations of political impotency legal draconian answers that imply the amputation of a part of democracy itself”,¹⁵⁰ and “ETA is the worst enemy of the liberties of the Spanish people and of the Basque people”¹⁵¹ are quite common in the research. Statements such as these imply, or overtly claim, that terrorism is a threat to Spanish democracy, and given the fact that concern for terrorism was a primary concern for Spaniards, perhaps, the heads of government and opposition made statements such as these so that they appeared to acknowledge this concern. However, although much is said that appears to try to invoke a panic in the Spanish public about the strength of their democracy, Spanish politicians seem to have balanced this panic with statements such as: “regardless of terrorism, democracy has continued settling itself in Spain”.¹⁵²

It should be noted that the terrorist organization ETA was not viewed as the only threat to Spanish democracy. In much of the research, the mere attempt or willingness to negotiate with ETA was portrayed as being enormously destructive to Spanish democracy. This held true even in light of the fact that Javier Solano, Minister of Culture at the time, recognized that “there has been, there are, and there will be contacts” between governmental representatives and leaders of the military faction of the terrorist

¹⁵⁰ Gor, Francisco, “La ley de Defensa de la Constitución, ‘una ley de Prensa camuflada’”, *El País*, 27 June 1981

¹⁵¹ “El Gobierno descarta la censura de opiniones de los terroristas como en el Reino Unido”, *El País*, 24 October 1988

¹⁵² Moreno, Marifé, “Benegas afirma que votar al CDS es dar votos a Fraga”, *El País*, 29 May 1989

organization, ETA.¹⁵³ For example, even though Adolfo Suárez, President of the Union of the Democratic Center (UCD) party at the time, believed it was “logical” to take advantage of “an opportunity of dialogue” if it presented itself, and the Basque Provincial Government agreed, a spokesperson for the Minister of Interior said that it would be “politically rude” and “an absolute depreciation to those who have been victims of terrorism” to hold negotiations between the Spanish Government and ETA.¹⁵⁴ An even more illustrative example of the catastrophic effects negotiating with ETA was thought to bring Spain is the following quote from a delegate of the Basque Government: “negotiating now with ETA not only would lay the groundwork for the collapse of the democratic State but moreover would be an example of an unspeakable strategic blunder”.¹⁵⁵ Regardless of the aforementioned remarks regarding how negotiating with ETA would damage Spanish democracy, negotiations or “talks” or “dialogues” continued. Perhaps the reason for continuing to hold the dialogues was best stated by Mariano Rajoy, Minister of Government at the time: “we have to do the impossible so that it becomes possible”.¹⁵⁶

As the implementation of new legislation, or the modification of existing legislation, is one of the factors in determining whether a moral panic is present, and heads of government are responsible for initiating and carrying out modified or new policies, a brief mention of such is necessary at this point, but is addressed in greater detail later in this thesis. Regardless of the fact that throughout the research period many

¹⁵³“Sola admite que ‘ha habido, hay y habrá’ diálogo del Gobierno con ETA para poner fin al terrorismo”, *El País*, 29 August 1987

¹⁵⁴“Suárez e Izquierda Unida, a favor de dialogar con ETA”, *El País*, 5 August 1986

¹⁵⁵“Negociar con ETA es una ‘torpeza estratégica’ según Ramón Jáuregui”, *El País*, 18 November 1985

¹⁵⁶Aizpeolea, Luis R., “La Declaración de Barcelona se sitúa fuera de la Constitución”, *El País*, 26 September 1998

different modifications of existing counterterrorism laws or new counterterrorism laws were implemented, for the most part, Spanish politicians appeared averse to overstepping their boundaries and were willing to work within the constraints of the democratic system to achieve their counterterrorism objectives. For example, Manuel Fraga, President of the Popular Alliance, stated that a “priority has to be given to the problem [of terrorism] utilizing normal, legal means including states of exception, to combat it”.¹⁵⁷

On the other hand, however, the statements clearly reflect how this was not always the case. For example, when José Maria Aznar was first running for election, he stated that if he “made it to govern [won the election], he would modify the penal code so that terrorists would rot in jail”.¹⁵⁸ This statement produced backlash, including from Felipe González, Prime Minister at the time, who replied to Aznar’s statement by stating, “the Constitution is a text passed by referendum by the immense majority of the Spanish people and although it is not written in stone” he predicted that this modification to the penal code “would have some type of problem”.¹⁵⁹ González additionally stated that it was one thing to know that terrorists deserved the maximum sentence and the maximum amount of contempt but that it was another to “play with such important pieces as the Constitution and its purposes”.¹⁶⁰

The last factor that needs to be examined here is that the research demonstrates that politicians often had to try to convince the Spanish public that the means taken in the counterterrorism fight were necessary and proportionate. For example, when the *Egin*

¹⁵⁷“Si estamos en la oposición, no haremos obstruccionismo’ afirmó Manuel Fraga”, *El País*, 29 September 1982

¹⁵⁸ Gorospe, Pedro, “Ardanza culpa a Aznar de estar bloqueando la iniciativa pacifadora del Pacto de Ajuria Enea; González emplaza al líder del PP a ‘tener la honradez’ de decir que quiere cambiar la Constitución” *El País*, 29 December 1995

¹⁵⁹ *Ibid.*

¹⁶⁰ *Ibid.*

newspaper, a Basque newspaper believed to be promoting ETA's goals, was closed due to the fact that it was often supportive of the terrorist group, many members of the Basque and Spanish governments had to defend this decision as it was widely viewed by the public as an infringement of the freedom of the press. An example of this is the statement by a spokeswoman for the Basque Government who claimed that even though the closing of *Egin* was "an unusual measure", she had "confidence in the prosecution and the proportionality of the measure".¹⁶¹ It is well known that when certain things must be said aloud that they are, more often than not, contrary to what they are claimed to be, and as such, it must be mentioned that Article 571 of the Spanish Penal Code makes it an offense to work "in the service of an armed band, organization, or group", and demonstrating support for a terrorist organization could very well be considered to be working in the service of the group.

As one might presume, and as the research demonstrates, the relationship between the public and politicians is not always the easiest, and in fact, it can be quite contentious at times, and, occasionally, even outright adversarial. There are times in which the government will heed what the public believes or says, other times in which it attempts to keep the public "under control", and lastly, further occasions when politicians blatantly ignore the public or appear to simply be unconcerned about what the public believes. The following statements offer some illustration. Regarding heeding what the public says, politicians have "manifested concern that polls reveal a certain loss of image as a consequence of ... uncertain results in the areas of the exterior and terrorism".¹⁶² It is noteworthy to mention that this specific quote comes from an election period and,

¹⁶¹ Larraya, José Miguel, "Aznar considera la medida del juez un paso más en la lucha contra ETA" *El País*, 22 July 1998

¹⁶² Jáuregui, Fernando, "Las elecciones que vienen", *El País*, 2 December 1984

therefore, the ruling party was concerned about not being re-elected due to their “loss of image”. Additional examples were found that refer to trying to keep the public “under control” or, in other words, there are numerous examples of statements in which Spanish politicians appear to be trying to prevent the Spanish public from overreacting to various circumstances. For example, regarding the potential reinstatement of the death penalty, Miguel Boyer, Minister of Economy and Finance at the time, believed it was possible to eradicate terrorism working within the constraints of the democratic system, and he tried to avoid the arguably disproportionate response of reinstating the death penalty by stating, “it is possible to defend society against terrorism without violence, without resorting to torture and without reinstating the death penalty”.¹⁶³

Lastly, as aforementioned, at times it was quite evident that Spanish politicians did not care about or heed to what the public thought. Quotes such as “to govern based on surveys is an error of the highest caliber”,¹⁶⁴ “the Government and the Popular Party do not act thinking in the next elections, but instead of the next generations”, and “we [the Spanish government] are not willing to trade votes for security”¹⁶⁵ all demonstrate that the Spanish government did not always pay attention to what the Spanish populace wanted, and instead did what it believed to be in the best interest of its citizenry even when it contradicted what the citizens wanted. An example of such would be when Spain sent troops to Iraq in 2003 when 91% of Spaniards were against doing so.¹⁶⁶

¹⁶³ Gor, Francisco, “La democracia debe combatir el terrorismo [in original] con las armas propias de la democracia”, *El País*, 7 June 1981

¹⁶⁴ P., J., “Las encuestas nos dan una gran ventaja sobre la oposición”, *El País*, 27 July 1984

¹⁶⁵ Agencias, “Un 91% de los españoles son contrarios a la intervención en Irak”, *El País*, 27 March 2003

¹⁶⁶ *Ibid.*

In conclusion, while it is absolutely true that at times Spanish politicians appeared to be inciting fear or panic, especially regarding the affect terrorism has, or could have, on Spanish democracy, it is also true that Spanish politicians were at times very cognizant of how their words would resonate with the Spanish public and, as such, they attempted to ease fears that could have led to a panic. With that being said, it is possible to say that Spanish heads of government and opposition exhibited a number of the different indicators of a moral panic to a small extent. In other words, the data concerning Spanish heads of government and opposition demonstrate a heightened level of concern and substantial or widespread agreement that the threat is real, serious, and caused by the wrongdoing group members and their behavior, and to a lesser extent, or by a small number of politicians, an increased level of hostility, disproportionality, and volatility.

United Kingdom

Turning now to the case of the United Kingdom, the following examination of the role played by British politicians in the creation of a moral panic, or lack thereof, demonstrates that British politicians have often behaved very similarly to their Spanish counterparts, especially with regard to British politicians' sentiments toward the public, mainly concerning opinion polls, and also the seeming contradictions found between public sentiment and governmental actions or policies. However, some differences between the British and Spanish politicians are also evident.

As was demonstrated with the public opinion poll data, the IRA enjoyed a higher level of support among the British public than ETA did among the Spanish public. This is important to recall because the research reveals a link between the British government's

policies and support for the IRA. For example, Conor Cruise O'Brien, a Labour Member of Parliament (MP) at the time, wrote, "if London is asking Dublin to discountenance and discourage the IRA, it should try itself to refrain from acts and omissions which are likely to spread sympathy for the IRA".¹⁶⁷ Another example of a statement that reflects the relationship between the British government's policies and support for the IRA comes from Danny Morrison, an ex-Sinn Fein spokesman, in the aftermath of an attempt on the life of former Prime Minister, Margaret Thatcher, and multiple members of her cabinet, in which he recognized that had the bombing resulted in their deaths that "it would probably have led to Draconian security measures in Northern Ireland [and] past experience has shown that this always leads to increased support for the terrorists".¹⁶⁸ It should be noted that even though the IRA enjoyed more public support than ETA did in Spain, British politicians, not unlike their Spanish counterparts, were quite averse to granting concessions to the IRA or holding negotiations or talks with them, or at least publicly doing so. As the General Secretary of the Ulster Unionist Party at the time, Mr. Jim Wilson, stated, "it would certainly strain relations if it emerged that senior civil servants, some of whom may have been talking to us, had been talking to representatives of the IRA".¹⁶⁹

Another noticeable commonality between the British and Spanish politicians is the description of terrorist attacks as attacks against their respective democracies. Regarding the same attacks on the former Prime Minister and members of her cabinet, Mr. Brittan, the Home Secretary at the time, stated that the purpose of the attack was "no

¹⁶⁷ Cruise O'Brien, Conor, "Ballot box or the bullet in Northern Ireland", *The Times*, 14 August 1971

¹⁶⁸ Holland, Mary, "After Brighton what next for Belfast", *The Times*, 16 October 1984

¹⁶⁹ "Northern Ireland poll records vote for peace", *The Herald* (Glasgow), 18 November 1993

less than to strike a blow at the heart of our democracy”.¹⁷⁰ Even though Mr. Brittan was stressing the importance of the terrorist attack and the disastrous consequences it could have led to, he also made the following statement declaring to the British public that, “those who believe that terror can prevail against democracy understand neither the members of this House – nor the British people”.¹⁷¹ Similar statements were also made in the aftermath of the 7/7 attacks in London by former Prime Minister Tony Blair such as the following stated just days after the London attacks: “[this country] will not be defeated by such terror, but will defeat it and emerge from this horror with our values, our way of life, tolerance and respect for others undiminished”.¹⁷² The former Prime Minister Tony Blair stated this even though he “promised there would be the ‘most intense police and security service action to make sure we bring those responsible to justice’”¹⁷³ and emphasized that, “it is important that we respond by keeping to our normal lives and doing what we want to do because to do otherwise is in a sense to give them [the terrorists] the very thing they are looking for”.¹⁷⁴

It must be mentioned that while terrorist attacks could not destroy British democracy, British politicians at times appeared to be headed down that road themselves. This is especially true regarding the proposals and implementation of new security measures. Statements reflecting the need for expanded or new counterterrorism measures are present throughout the research period. For example, Francis Pym wrote in 1974, “the

¹⁷⁰ Wightman, James, “‘TIGER’ UNIT SET UP TO FIGHT IRA: Brittan mounts terror offensive”, *The Times*, 23 October 1984

¹⁷¹ *Ibid.*

¹⁷² White, Michael, “Attack on London: Howard praises ‘calm and resolute’ Blair”, *The Guardian* (London), 12 July 2005

¹⁷³ Tempest, Matthew, Griffiths, Ian J., and agencies, “Blair: We will not be intimidated”, *The Guardian*, 7 July 2005

¹⁷⁴ White, Michael, “Blair appeals for return to normality and warns against looking for scapegoats”, *The Guardian*, 22 July 2005

need for a vigorous security campaign against terrorism remains a high priority” and this sentiment only continued to repeat itself in the aftermath of the July 2005 attacks in London.¹⁷⁵

Even though the introduction of arguably disproportionate measures (e.g. internment, the creation of a national identity card, etc.) was considered necessary prior to the July 2005 attacks, after the attacks it became evident that the counterterrorism measures were becoming increasingly extreme in nature, or even disproportionate, especially for a democratic state. For example, even though Western liberal democracies are thought to be “beacons of liberty”, in the aftermath of the London attacks, the British government established a “hierarchy of freedoms” in which, for example, “the freedom not to be filmed by a camera is not as great as the freedom to have a fair trial”.¹⁷⁶ Before jumping too quickly to any conclusions regarding the potential disproportionality of the British government’s counterterrorism measures, it must be noted that much of what the British government did regarding its counterterrorism or security measures, had the backing of the public. For example, returning to the example of the creation of a national identity card, it was stated that “public opinion overwhelmingly supports the principle of identity cards” and, moreover, that the government had been elected on a manifesto that included identity cards.¹⁷⁷ It is, however, necessary to remember that as previously mentioned in the public opinion poll data section, “it ha[d] long been the habit of home secretaries (of both parties) to use the results of public opinion polls ... to ease the passing of controversial decisions and legislation, especially when their intent is to

¹⁷⁵ Pym, Francis, “Truth is the casualty overlooked in the Ulster campaign of fear”, *The Times*, 25 May 1974

¹⁷⁶ “Spanish daily backs UK home secretary on tough antiterrorist measures”, *BBC*, 14 July 2005

¹⁷⁷ Settle, Michael, “Blair ‘ready to’ change identity card scheme to speed approval; Hain confident bill will be passed”, *The Herald* (Glasgow), 16 May 2005

diminish rights and civil liberties”.¹⁷⁸ While some British politicians did indeed use public opinion to support their arguably disproportionate counterterrorism measures, there were also British politicians who cautioned against the use of these disproportionate measures and emphasized the importance of staying within the confines of the democratic system when combating terrorism. For example, David Cameron stated that there should be “rigorous implementation of existing powers. And nothing which undermines that which we are trying to defend: our shared values of freedom under the rule of law. Everything we do should be consistent with the rule of law”.¹⁷⁹

It is of equal importance that British politicians, not unlike their Spanish counterparts, do not always appear to be concerned about what the British populace has to say or think. In fact, British politicians have at times even contradicted themselves on their views of public opinion. For example, Margaret Thatcher said, “the heart of politics is not political theory, it is people and how they want to live their lives”¹⁸⁰ and then a few years later said, “she took no notice of opinion polls. ‘There’s only one poll I’m interested in, and that’s the one on election day.’”¹⁸¹ Therefore, even though the public has a vastly important role to play in a democratic state, it can be stated that when the public is in agreement, British politicians will surely emphasize this fact in order to accomplish their objectives, and when the public opposes them, they carry on with the intent of realizing their predetermined goals, seemingly oblivious to public opinion. One could also argue that the British politicians, at least once elected, do not let the opposing

¹⁷⁸ Berlins, Marcel, “All politicians want to be popular with voters. But rule by opinion poll is not what democracy is about”, *The Guardian* (London), 9 November 2005

¹⁷⁹ “Full text: David Cameron’s speech; The shadow education secretary’s speech to the Foreign Policy Centre thinktank”, *The Guardian*, 24 August 2005

¹⁸⁰ From the Conservative’s manifesto in 1979; quoted in: Cooper, Andrew, “It may be too late to save them now, but the agenda is going the Tory way”, *The Times* (London), 1 March 2005

¹⁸¹ Bevins, Anthony, “Now the rifts appear in the Tory ranks”, *The Times*, 2 March 1985

public opinion concern them. This can be illustrated with the following quote from Mr. Britton, “let it be said in the plainest terms – the only way to get rid of a government is by the ballot box”.¹⁸²

In conclusion, British politicians are in many ways very much like their Spanish counterparts, especially with regard to the apparent disinterest in public opinion even though both are considered to be democratic states. British politicians have used some fairly extreme language to refer to their counterterrorism endeavors and the threat terrorists pose to the democratic state, but this language has often been balanced out with statements referring to the strength and integrity of British democracy. One important contrast found in the British case is the prevalence of exceptional measures in the aftermath of the July 2005 terrorist attacks in London. Furthermore, as previously noted, British politicians and the British public appeared, more often than not, to have had a very contentious relationship, in the aftermath of the July 2005 terrorist attacks. It became more apparent that the British government would do anything it deemed necessary to eradicate the terrorist threat and prevent more terrorist attacks from occurring, regardless of the effect this would have on civil liberties or human rights. The example of the “hierarchy of liberties” above offers a compelling illustration of this. An additional example is that of a statement by Sir John Weston, a British diplomat, who believed that Parliament should endorse any necessary measures to curb the domestic terrorist threat brought on, in part, by “Labour’s hasty importation into British statute law of the European Convention on Human Rights”, and invited those who wished to challenge the U.K. to do so “if they dare”.¹⁸³ Statements such as the previous one that

¹⁸² *Supra* note 169

¹⁸³ Weston, John, “Terror and rights”, *The Times* (London), 5 August 2005

illustrate that in the aftermath of the July 2005 attacks the British Government was willing to take whatever counterterrorism or security measures it deemed necessary to protect the U.K. from another terrorist attack. It is also due to statements such as this that evidence supports the involvement of British politicians in creating a moral panic in the aftermath of the July 2005 terrorist attacks. In sum, the data concerning British heads of government and opposition demonstrate a heightened level of concern and substantial or widespread agreement that the threat is real, serious, and caused by the wrongdoing group members and their behavior, and an increased level of hostility, disproportionality, and volatility.

Chapter 4: Editorial Data

Liberal, western democracies are well known for providing and safeguarding a number of different liberties and freedoms, including the freedom of the press, which has direct links to freedom of speech. While it must be noted that some newspapers may choose to self-censor, or even apologize for publishing certain information, by and large, newspapers are deemed free to publish the information they choose, which includes information that the democratic government would rather it not publish.¹⁸⁴ Furthermore, and more importantly, this freedom to publish what the individual writers or editors decide can grant the newspaper an incredible ability to influence public opinion. This influence on public opinion, as it regards terrorism and the states' counterterrorism responses, is analyzed in the cases of Spain and the United Kingdom below. This section reviews editorials published in both Spain and the United Kingdom and discusses the most important and prevalent trends found in the research. For the Spanish case, editorials are chosen from *El País*, the most widely read newspaper in Spain. The editorials for the British case are taken primarily from *The Times*, but supplementary articles also come from *The Guardian*, *The Irish Times*, and other newspapers. These newspapers were chosen due to the facts that they are widely read in their countries and for reasons of accessibility.

¹⁸⁴ An example of one such apology is evident in an *El País* editorial from 16 September 2004 in which "El País asks forgiveness for using images of the attacks against the Twin Towers in New York, occurred on 11 September 2001, for a campaign to capture subscribers to ELPAIS.es".

Spain

Many of the same topics discussed in the previous sections regarding public opinion and statements of heads of government and opposition are also present in editorial content. One topic examined in the previous sections was how politicians relied upon the notion of democracy as a sort of rallying cry to combat terrorism, which was evident in statements such as those that called terrorist groups and their actions “threats to the fabric of a democratic society”. The research demonstrates that editorials reflect a similar situation. In fact, the threat terrorism poses to the democratic system in Spain is one of the most prominent themes found throughout the research of Spanish editorials. The most notable aspect of the research on Spanish editorials is that they express great concern for maintaining the integrity of the democratic system. This concern is expressed through a number of different ways including: their remarks as to how the Spanish government has gone against, or is not acting in accordance with, the Spanish Constitution and other laws, editorials regarding the reinstatement of the death penalty, the pardoning and reinsertion of terrorists, and overall, any attempt by the Spanish, or any other democratic government, to step outside the confines of the democratic system to fight terrorism.

For a fledgling democracy perhaps it is self-evident that editorials would express great concern for maintaining the integrity of the state’s democratic institutions, including such integral parts as its constitution. It is, however, not insignificant that this theme continuously appears throughout the research period. One such aspect found in the literature is that of ensuring that the provision for extraordinary measures is implemented

only in the case of extraordinary situations. As noted, the Spanish editorials express great concern over the implementation of extraordinary measures, such as prolonged detention or violations of *habeas corpus*, to combat terrorism. One editorial, for example, stated, “it is also incomprehensible that this same tribunal [of the Spanish National Court] was able to keep for almost two years in provisional prison the accused of a crime that was later considered unfounded.”¹⁸⁵ What is perhaps even more important is the fact that the editorials suggest that these extraordinary measures are useless in the fight against terrorism. The following excerpt offers one example of how the extraordinary measures are inefficient:

Predictably, the Antiterrorism Law has been of no use when fighting political violence in this country. Article 86 of the Constitution *conditions* [in original] the use of decree-laws in cases of ‘extraordinary and urgent need’ and explicitly and expressly *prohibits* [in original] enactment when it affects ‘the rights, duties, and freedoms regulated under Title I’.¹⁸⁶ The new decree-law extends the validity of a law that establishes substantial cuts to habeas corpus, the inviolability of the home, and secrecy of postal, telephone, and telegraph communications guaranteed by articles 17 and 18 of the Constitution.¹⁸⁷

A further example is the following in which an editorial claimed, “the proven inefficiency of the antiterrorist law – unconstitutional for many reasons – to fight against terrorism only, will be comparable to its patent utility to frighten the population.”¹⁸⁸

One of the central reasons why the editorials reflect the ineffectiveness of the extraordinary measures is that they express the belief that the democratic system is

¹⁸⁵Editorial, “Jueces y terrorismo”, *El País*, 23 November 1991

¹⁸⁶ Title I of the Spanish Constitution encompasses 45 Articles of “Fundamental Rights and Duties” which are broken down into the following five chapters: Chapter One: “Spaniards and Foreigners”, Chapter Two: “Rights and Freedoms” subsection 1: “Fundamental rights and public liberties” and subsection 2: “The rights and duties of citizens”, Chapter Three: “The Guiding Principles of Social Policy”, Chapter Four: “Guarantees of Fundamental Rights and Freedoms”, and Chapter Five: “Suspension of Rights and Freedoms”.

¹⁸⁷Editorial, “El Gobierno, de nuevo contra la Constitución”, *El País*, 5 December 1979

¹⁸⁸Editorial, “La ley y la bomba”, *El País*, 24 May 1988

already powerful enough to combat terrorism without implementing exceptional measures, which may, perhaps, be a reason why Spain has not implemented many extraordinary counterterrorism laws or policies, especially in the aftermath of the GAL fiasco.¹⁸⁹

The reality is that, ultimately, the Government finds itself with the fact that there exist laws that are more than powerful – and some that are doubtfully constitutional to fight against terrorism. ... But it would be a dangerous error if the Government were to walk the slope of panic on this issue. ... Moreover, the experience of the so-called Law of the Defense of Democracy teaches that these types of threats are not those that succeed in defeating terrorism, but rather those that stir its waters. The Government is not obliged to offer miracles in its fight against ETA, but it is, in exchange, obliged to not make mistakes in its repressive response.¹⁹⁰

Additionally, “operations such as that culminated by the *Guardia Civil* with the disarticulation of the *Araba* command [a faction of ETA responsible for 39 deaths] show that the democratic State has the capacity and legal means to face the challenge of terrorists so that their criminal activity does not go unpunished.”¹⁹¹ This theme is also present in the aftermath of the 11/M attacks. For example, one editorial, written a few months after the 11/M terrorist attacks stated, “experience indicates that more efficient than changing legislation is to apply with tenacity and [use] existing legislative means”.¹⁹²

One interesting aspect of the editorial research is that they express concern that perhaps the divergence from the democratic constitutional system is not necessarily intentional, but instead, that it is to some extent derived from the assumption of power. For example, “this legal withdrawal is, however, a worrisome manifestation that the

¹⁸⁹ The GAL, the Antiterrorist Liberation Group, was a Spanish state-sponsored death squad involved in the Spanish Dirty War to eradicate ETA in the mid and late 1980s.

¹⁹⁰ Editorial, “El terrorismo, ante el Congreso”, *El País*, 3 November 1983

¹⁹¹ Editorial, “La horma de ETA”, *El País*, 19 September 1989

¹⁹² Editorial, “Medidas defensivas”, *El País*, 26 May 2004

heights of power can dizzy those who occupy the positions to the point of temporarily forgetting their own past and to jeopardize its credibility”.¹⁹³ This is important because, again, for much of the research period Spain had not been a consolidated democracy for a very long time, and consequently, it is easy to see why concern for maintaining its democratic stability is repeatedly raised in the editorials, especially, when this can lead to the slippery slope of the erosion of civil liberties and other non-democratic methods of counterterrorism.

An additional aspect of the research to be addressed regarding the editorial viewpoint on the government going against the Spanish Constitution is that the editorial research reflects the fact that constitutional freedoms, liberties, and rights are applicable to *all* Spanish citizens, including alleged or convicted terrorists, but that they are useless when there is no confidence that the state will protect and respect them. An example of such is the following: “Guarantees that, obviously, protect all, including terrorists, but taking care of its inaccurate or inexperienced legal formation and routine in its application does not serve the purposes of those who do not believe in them and combats with fury the institutions that endorse them.”¹⁹⁴ This belief is also apparent in the aftermath of the 11/M attacks in Madrid, especially regarding combating the threat of Islamic terrorism.

The last aspect of the research to be addressed here focuses on the importance of staying within the confines of the Spanish Constitution and not using exceptional measures in the battle against Islamic terrorism. Here, two aspects are significant. First, the editorials explain that changing the existing counterterrorism legislation, specifically

¹⁹³ Editorial, “El Gobierno, y las garantías constitucionales”, *El País*, 9 April 1983

¹⁹⁴ *Supra* note 190

the Antiterrorism Pact, would not help defend or protect Spain from the threat of Islamic terrorism because Islamic terrorists are not interested in taking part in Spanish democracy. For example:

It would be unrealistic to pretend to go further and convert the agreement [the Antiterrorism Pact] in the framework for eventual shared initiatives against Islamic terrorism. The pact, and its specific content, only makes sense against ETA. ... It is artificial to try to apply these principles to Al Qaeda, that neither intends to change the Spanish Constitution to include self-determination, nor negotiate political accords with legal organizations, nor pretends to negotiate anything with the Government. It would trivialize the pact to pretend that, since it is called antiterrorist, [that it] provides guidance to deal with any terrorism.¹⁹⁵

The second aspect of importance here is that the editorials caution that focusing too much attention on the threat of Islamic terrorism, as real as it is, could lead to the egregious error of not continuing to focus on the threat posed by ETA. For example, in one editorial it is argued, “one last consideration is that it would be an error that this reinforcement of the fight against Islamic terrorism was made at the cost of the fight against ETA”, and that, moreover, “maintaining political efficiency and judicial firmness, as well as democratic unity, against this group [ETA] is now the essential condition so that it does not blight the (realistic) expectation of its final defeat.”¹⁹⁶

As should now be apparent, Spanish editorials overwhelmingly stress the importance of staying within the democratic system (i.e. by using measures true to a democracy) in the counterterrorism fight and, moreover, this theme is clearly demonstrated throughout the entirety of the research period. Moreover, the Spanish editorials do not hesitate to question the Spanish Government when the press believes it is stepping outside the boundaries of the democratic system. One example of an editorial

¹⁹⁵Editorial, “Canalizar sin banalizar”, *El País*, 11 May 2004

¹⁹⁶Editorial, “Medidas defensivas”, *El País*, 26 May 2004

expressing the belief that the Spanish Government should stay within the confines of the democratic system is the following:

Many times we have had the opportunity to note that together with the destruction and damage directly caused by the criminal barbarity of ETA should also account for the moral damages in the social body, the discredit of democracy and its methods, the perversion of authority or the leniency before the violation of the basic values of the rule of law. The inadmissible and cruel torture ... by ETA mobsters cannot be pretext or reason for the State apparatus to lose its nerve. The maxim that against terrorism anything goes is unworthy of any democratic sensibility, but is moreover, and as verified, stupid.¹⁹⁷

An additional emphasis in the editorial research is that no individual falls outside the rule of law. For example, “in the rule of law, no violent death – not even those produced by security forces in the legitimate fight against terrorism – falls outside the scope of investigation by an independent and impartial body such as the judicial.”¹⁹⁸

It should not be surprising that the editorials address issues that were demonstrated to be of great concern in the previous sections. Controversial issues such as the possible reinstatement of the death penalty, the possibility of negotiating with terrorists, and granting them amnesty or pardons are all discussed in the editorials. Regarding the death penalty, the editorials clearly reflect the notion that the potential reinstatement of the death penalty is not something that should be considered, especially not given the justification for the reinstatement. In discussing how the death penalty was abolished not only from many European countries’ “penal legislations, but also [in the] public opinion in almost all of Europe”, one editorial explains how the case has changed so that “today [written in 1978] the people of the West are shown favorable to the death

¹⁹⁷ *Supra* note 188

¹⁹⁸ Editorial, “La horma de ETA”, *El País*, 19 September 1989

penalty for a pure and terrible reflection of what has been called legitimate defense.”¹⁹⁹

The controversial topic of negotiating, or “talking”, with terrorists is also addressed in the editorials and it is blatantly obvious that the editorials express an opinion in favor of negotiation. In fact, one editorial states, “dialogue is a path that no civilized Government can renounce, especially if from the dialogue the eradication of violence could be derived.”²⁰⁰

The editorial research regarding the pardoning of terrorists is multifaceted. On the one hand, the editorials highlight the fact that the pardoning could be taken advantage of, while on the other hand, they express a belief that the pardoning can be beneficial to ending the terrorist threat from ETA. An excerpt demonstrating the first aspect is the following:

Because no sane [person] could honestly ask for pardons for those who, the day after leaving prison, were ready to commit [atrocious] murder ... And only the disappearance of violence in the Basque Country would make a change in the prisoner’s situation imaginable. But this is well known by those who obscenely manipulate the mobilizations in favor of amnesty as one more piece of a strategy of provocation and death.²⁰¹

Turning now to the second aspect, editorial statements such as “any attitude that could put a definite end to the violence and facilitate coexistence within our rule of law could only be well received by the lovers of peace and progress. To feed the fighting inexorably leads to catalyze the tensions and play [into] the violence” clearly demonstrate how the pardoning of terrorists could be advantageous in winning the counterterrorism fight against ETA.²⁰² An additional example is as follows:

¹⁹⁹ Editorial, “Democracia frente a terrorismo”, *El País*, 1 April 1978

²⁰⁰ Editorial, “Terrorismo e independentismo”, *El País*, 17 May 1980

²⁰¹ Editorial, “El crimen de Rentería y la campaña electoral de ETA”, *El País*, 15 September 1982

²⁰² Editorial, “Perdón para terroristas”, *El País*, 8 August 1982

It is surprising – although the data had already been revealed by other previous studies – that there are more Basques willing to accept a change to the Constitution and the Statute [of Guernica] than granting amnesty to ETA prisoners.²⁰³ Surprising, because without a doubt it would be more viable to [with]draw the prisoners than undertake legal reforms of doubtful democratic legitimacy – in the measure that a minority [were to] impose their points of view to the majority – and that would require a difficultly attainable consensus.²⁰⁴

The previous statement is of extreme significance not only because it demonstrates how the editorials remain true to their steadfast belief in the necessity of staying within the democratic system, but more importantly, it also makes a very powerful statement in that even though a greater percentage of Basques are willing to accept changing the Constitution and the Statute of Guernica than granting amnesty to imprisoned *etarras*, that these legal reforms would not likely be very democratically legitimate, and, therefore, this excerpt can conceivably be viewed as a plea to politicians to resist popular will for the sake of the integrity of Spanish democracy.

The topic of reinsertion is also discussed in the editorial research. It is important to note that the editorials discuss not only the reinsertion of convicted *etarras* but also that of officials convicted for their role in the GAL and Spain's Dirty War. The topic of reinsertion is also multifaceted. Editorials acknowledge the hesitation many had toward reinsertion but maintained:

[I]f the gradual reinsertion of Amedo and Domínguez serves to make it understandable to the enemies of this policy toward the *etarras* that the best way to end almost three decades of deaths and pain caused by terrorism, then it is worthwhile to bear the malaise caused to many Spaniards [because of] the certainty that they will not finish the sentences they deserve.^{205 206}

²⁰³ The Statute of Guernica is also known as the Statute of Autonomy of the Basque Country

²⁰⁴ Editorial, "Tregua y opinión", *El País*, 20 September 1998

²⁰⁵ Amedo y Domínguez were two police officers convicted for belonging to the GAL.

²⁰⁶ Editorial, "Reinsercion", *El País*, 22 July 1994

Another important aspect of reinsertion present in the editorials, both before and after the terrorist attacks of 11/M, is that reinsertion may help to alleviate some of the radicalization of terrorists. For example, one editorial states, “to close the ways of incorporation into society of these ex-terrorists that have abdicated violence not only would foment the irrationality of the groups of prisoners already committed to crime. It would feed also the *numantinismo* of terrorists already in freedom and of their political environment.”²⁰⁷ An example from after the attacks of 11/M is an editorial that discusses the radicalization of the prison population, especially of those of Maghreb origin. While it is not within the scope of this thesis to address in detail the aspects of radicalization, it is, nonetheless, worth highlighting that the presence of a large number, more than 10% of those imprisoned in Spain, of Arabs in Spanish prisons “favors the psychological influence of radical leaders that offer the small-time offenders to continue doing what they were doing – for example, falsifying mobile phone [SIM] cards – but now to the service of a greater cause”.²⁰⁸ Considering the ties the terrorists responsible for the attacks of 9/11 in New York and Washington, D.C. had to Spain, and the 11/M train bombings in Madrid, this process of radicalization in Spanish prisons is not anything to be taken lightly.

Perhaps one of the more significant aspects of the research is that the editorials rightfully continue to note that the counterterrorism struggle is a long-term battle and advise that terrorism cannot and will not be easily or quickly eradicated. Furthermore, the

²⁰⁷ Per the Manual Dictionary of the Spanish Language: “Refers to the members of a Spanish secret society at the service of liberal ideas that emerged after the establishment of absolutism (1832)” or “the Republican soul and national-catholic heart” or a symbol of heroic or last-ditch resistance, specifically refers to the remains of an ancient city, *Nomantia*, near present-day *Soria* in the *Castilla-León* province of Spain that lies just outside the Basque Country. Here it is used in the context of serving as a symbol of heroic or last-ditch resistance.

²⁰⁸ Editorial, ¿Estamos preparados?, *El País*, 28 October 2004

editorials express the opinion that not only is full domestic governmental cooperation and action necessary to combat terrorism, but also that multilateral action (i.e. collaboration among local and state, Spanish and European Union or other international or multinational institutions) is essential to eliminating the threat of terrorism.

The inevitability that the terrorist fight will be a long-term battle is present throughout the research period. While it is noted that the “problems of social coexistence in the Basque Country are quite older than the actual political regime of freedoms”, and that “a good part of their roots [are found] in the blind politics of the dictatorship, that, with its simplicity and lack of historical vision, was the most valuable ally of the flourishing of the armed groups”, editorials explicitly explain that the counterterrorism battle is a long-term battle.²⁰⁹ For example, an editorial from 1978 states, “we will have terrorism with democracy as we had it with the dictatorship. There will always be marginal groups that include in their analysis the factor of ‘the worse, the better’”.²¹⁰ Another example is the following in which the editorial writers claim, “the Prime Minister rightfully asks for ‘tenacity’ and ‘perseverance’ in the counterterrorism fight and encourages social mobilization against the outrage.”²¹¹

The importance of full government cooperation and support in the fight against terrorism is demonstrated by the following example: “if there is a terrain in which all parties should avoid conflict it is that of the antiterrorist fight. ... Terrorism has lost the battle in *Euskadi* and in all of Spain, and what is needed now is that all those who have been its activists or defenders realize it. Conflicts between democrats in this terrain only

²⁰⁹ *Supra* note 202

²¹⁰ Editorial, “Primera Sangre”, *El País*, 11 March 1978

²¹¹ Editorial, “Frente a ETA”, *El País*, 17 September 2000

grant balls of oxygen to those that deny this reality.”²¹² The editorials also highlight how Spanish politicians have almost an obligation to work together to put an end to the threat of terrorism to avenge the deaths of all those who saw their demise in terrorist attacks.

The following, written about a dialogue with ETA, offers an example:

The moment could have arrived to open the process of dialogue contemplated in article 10 of the *Pact of Ajuria Enea* [because] for the moment there exists an “unequivocal will” from ETA to renounce violence.²¹³ But this very text established the rule of democratic majority for any accord of a political nature. It would be unacceptable for those who carry the precedent of more than 800 deaths on their backs.²¹⁴

The necessity of governmental cooperation as an integral part to combating Islamic terrorism is also made apparent in the aftermath of the 11/M attacks in assertions such as, “in any case, it will be essential that the measures [to combat Islamic terrorism] adopted by the Government have the maximum parliamentary support.”²¹⁵ Or when the editorials claim, “it is justified that the King continue to insist in the necessity of calming the political life and that [political] parties work with an integrative spirit. ... the concern that this partisan confrontation produces [is] far removed from the willingness to compromise that made the transition [to democracy] possible”.²¹⁶

Related to the topic of full domestic governmental cooperation is the imperative aspect of multinational action and collaboration in the counterterrorism fight. The importance of collective action in combating terrorism is of significant relevance not only because the editorial research demonstrates multilateral action is necessary to combat terrorism in Spain, but additionally because it reflects the view that this is the model for

²¹² *Supra* note 206

²¹³ The Pact of *Ajuria Enea* is the Accord for the Normalization and Pacification of the Basque Country of 1988

²¹⁴ Editorial, “Tregua y opinión”, *El País*, 20 September 1998

²¹⁵ Editorial, “Prioridades políticas”, *El País*, 23 April 2004

²¹⁶ Editorial, “El Rey y la transición”, *El País*, 26 December 2006

the democratic world to combat terrorism and, furthermore, the Spanish editorials after the 9/11 attacks in New York and Washington, D.C., the 11/M attacks in Madrid, and the 7/7 attacks in London, are steadfast in their belief that multilateral action is the only way to combat international terrorism. For example, even though the following statement was written with regard to former U.S. President Clinton's actions in Sudan, it demonstrates the Spanish view, or at least that depicted in the editorials, of the importance of multilateral collaboration, "to rush is not good advice in the fight against terrorism. Unilateral actions, omitting international rules also is not the way".²¹⁷ The editorials, moreover, reflect the belief that the necessity of multilateral action or collaboration should be quite obvious. For example, regarding how Britain and France alerted Spain to sleeper cells operating in Spain, an editorial asserted that this "demonstrates once more, as if it were necessary, the importance of the collaboration or even of joint police action between countries that face a terrorist threat that does not have borders and that can be felt anywhere".²¹⁸

In the aftermath of the 9/11 attacks Spanish editorials promptly noted that attacks of this magnitude were not just an attack against the United States for its past misdeeds or mistakes even though it was "the biggest attack ever suffered by the United States on their own territory", but that "above all it is an integral aggression against its political system, against democracy, and the free market. In short, against everyone with whom we share the same democratic principles that were so costly to obtain in our country."²¹⁹ Moreover, the editorials quickly noted "Spain is one of the United States' allies in the

²¹⁷ Editorial, "Terror y error", *El País*, 25 September 1998

²¹⁸ Editorial, "'Célula durmiente'", *El País*, 25 January 2003

²¹⁹ Editorial, "Golpe a nuestra civilización", *El País*, 12 September 2001

Atlantic system of defense [NATO] and should act as such.”²²⁰ The editorials, furthermore, affirmed that although “this indiscriminate terrorism, fruit of the most evident fanaticism, is the new central threat that to which democracies should face”, that they must do so “with methods specific to their values.”²²¹ The Spanish editorials additionally expressed the duty of allies to help one another in the counterterrorism fight, in that the international character of terrorism “favors the concerted action of all nations”.²²² Lastly, editorials showed how the nature of the terrorist threat can serve as a mechanism for politicians to overcome their differences and work together. One such example is the following editorial published three weeks after the 7/7 attacks in London: “the generalized threat of Islamic terrorism has made Blair and Zapatero put away their differences. Pragmatism unites a lot, above all in times of crisis. [Even] more [so] when it represents parties of the same family [i.e. political parties in democratic states]”.²²³

What is, however, perhaps even more significant is that the Spanish editorials do not shy away from addressing other democratic states’ counterterrorism policies when they believe they are dangerously close to falling, or have fallen, outside of the democratic framework in an attempt to hold them accountable for their questionably democratic methods. This is especially true regarding the United States in the aftermath of the 9/11 attacks and regarding Britain after the 7/7 attacks in London. The most worrisome aspect concerning both Britain and the U.S. is the possibility of indefinite detention of suspected or known terrorists which is made blatantly apparent from the manner in which the Spanish editorials address Guantanamo Bay. Perhaps of greater

²²⁰ *Ibid.*

²²¹ *Ibid.*

²²² Editorial, “Medidas defensivas”, *El País*, 26 May 2004

²²³ Editorial, “Mejores vibraciones”, *El País*, 28 July 2005

importance to the editorial writers, is their certainty that Guantanamo Bay serves only as a threat to democratic societies, especially through the way in which it serves as a means of fomenting hatred. For example, one editorial claimed, “Guantanamo has converted into a lighthouse of shame ... Guantanamo is not an isolated case. Its existence feeds the hatred that feeds violent fanatics as a horrendous showcase of the excesses of the so-called ‘war against terrorism’”.²²⁴ Or, how it is moreover claimed, “legal arguments aside, we are before an immoral act by a superpower that extends the extraterritoriality of its laws in an almost universal form to protect their own citizens and soldiers. ... Acting in this way takes away all credibility of the alleged policy of promoting democracy and human rights in the entire globe”.²²⁵ Of no less significance, the Spanish editorials even assert their responsibility in holding their democratic allies accountable. For example, one editorial declared, “it would be lamentable if in defense of the ‘strategic partner and ally’ [the United States], the Spanish Government did not insist in bringing light to on the shameful CIA flights for the capture and illegal delivery of prisoners.”²²⁶

To summarize this section, while the Spanish editorials reflect a concern for the sanctity of not only their democratic system but also that of their democratic allies, the editorials also clearly reflect a belief that the democratic system is strong enough to withstand and win the war against terrorism as long as it is fought with means true to the system, which is reflected in excerpts such as the following: “the danger is that a party or a ruler is considered in a situation that some sociologists call post-democratic, in which

²²⁴ Editorial, “La base de la vergüenza”, *El País*, 15 February 2006

²²⁵ Editorial, “Limbo sin ley”, *El País*, 13 March 2003

²²⁶ Editorial, “Socios estratégicos”, *El País*, 20 June 2006

they feel authorized to do whatever they please once they have obtained power the polls. Fortunately, there are still counterweights in democracies.”²²⁷

United Kingdom

Many of the same issues discussed in the previous sections regarding public opinion and statements by heads of government and opposition are also present in the research on British editorials. In the case of the United Kingdom, these include the following: democratic constraints, concessions to terrorist organizations, the possible reinstatement of the death penalty, the need for collaboration in the fight against terrorism, and that the fight against terrorism will not be easily or quickly won. As will be demonstrated, the most striking aspect of the research is that the editorials continuously express the belief that a steady hand in counterterrorism policy is what is viewed as being imperative to winning this battle and not necessarily the protection of democratic principles which is markedly different from the Spanish case. Of special relevance is the opinion expressed in the editorials that terrorists are not worthy of any special privileges or rights conferred upon political prisoners by international law. Some editorials refer to political leaders or public figures, namely religious authority figures, who often reflect the belief that terrorists should indeed be granted special political status because they are treated differently than other criminals. For example:

The demand is for political status, a recognition reflected in the nature of the regime to which they are subjected, that they are not as common criminals are. Some concession in that direction would not only be likely to be reciprocated by the better behaviour of the prisoners says Dr O Fiaich: it is in fact their due. They *are* [in original] in a different category from common prisoners. They have been convicted by courts which have no juries, usually on the basis of a type of evidence which has been shown

²²⁷ Editorial, “Bush cultiva el miedo”, *El País*, 14 July 2004

to be unsafe by the Amnesty [International] report on police interrogation in Northern Ireland.²²⁸

Excerpts, however, such as “the terrorist chooses violence as the instrument of first resort. Yet for some reason we have come to distinguish terrorism from violent crime when we should not make such a distinction. The act is the same. It is criminal violence against people who are not at war” are illustrative of the opinion that terrorists are unworthy of any special treatment due to the political aspects of their fight.²²⁹

The editorial research reveals that editorial writers had few qualms about even the more extreme measures Britain implemented to combat terrorism which included: internment, prolonged detention, and the potential reinstatement of the death penalty. Furthermore, the editorials also discuss certain violations of civil liberties as being imperative to counterterrorism efforts and, as such, imply that some violations are to be viewed as unimportant, or at least not as important as others, as they contribute to a greater good. For example, in discussing the possible introduction of a national identity card to help monitor border crossing between Britain and Ireland, one editorial claimed, “many of us do already carry several different forms of identification for financial or security purposes. It cannot be said that adding a national identity card would greatly reduce our freedoms”.²³⁰ While perhaps there is some truth to that statement as theoretically a national identity card would not reduce freedoms, it becomes a questionable measure when it is to be implemented to monitor the movement of peoples.

The editorials do, however, express concern over some counterterrorism measures and suggest that if they were not justifiably used, then criminal charges should be brought

²²⁸ Editorial, “The Prisoners’ Friend from Armagh”, *The Times*, 2 August 1978

²²⁹ Editorial, “Murder is Murder”, *The Times*, 2 March 1985

²³⁰ Editorial, “This IS an Act of War”, *The Times*, 23 November 1974

against those who implemented them. The following excerpt is quoted at length because it offers a good example of the view expressed in the editorials:

The Times believes that internment was justified when first used and that it continues to be an essential part of the struggle against the IRA. But it believes also that if such [a] drastic measure is to be used, and in particular if it is to be maintained, it should be free from criticism on the grounds of inadequacy of safeguards or the ill-treatment of detainees by those responsible for custody. It is of the utmost importance that detainees and internees be treated according to the law, strict as that law may be. The Special Powers Act (Northern Ireland), which has been referred to as the most powerful anti-terrorist legislative measure in the Western world, contains disturbingly few safeguards ... If, as appears to be the case, there was no legal justification for the methods of interrogation used, it could render some interrogators liable to a criminal charge of assault, for there is little doubt that some, possibly all, [of] the actions found to constitute physical ill-treatment would *prima facie* amount to that offence. ... But the importance of the interrogation issue is not so much whether or not it will lead to consequences in the courts, but that as grave a matter as the treatment of detainees must be government by law, and by specific statutory authority for what is done. In our view it is absolutely necessary to combat terrorism in Northern Ireland by imprisonment without trial. We do not believe that this harsh but necessary policy can be maintained without public support, unless the legal and administrative safeguards provided are rigorously adhered to.²³¹

As the excerpt illustrates, the editorials do express concern for staying within the constraints of the democratic system, as they argue that the more extreme measures need to be justified through laws or other legislative measures. It is interesting to note, however, that when proper legislative measures were found to be lacking, some editorials advocated for tougher counterterrorism measures and even proposed the means for the new measures. For example one editorial claimed, “an intensification of the military effort is now the only way of achieving the necessary success”, and further proposed a

²³¹ Editorial, “THE LIMITS OF SPECIAL POWERS”, *The Times*, 25 January 1971

“new Government of Ireland Act”, which included a number of suggestions as to how their institutions should be modified and powers redistributed.²³²

A further example as to how the editorials demonstrate both their belief that extreme measures are imperative to winning the battle against terrorism and how this battle must be fought within the democratic framework regards how legislation created to be permissible in times of emergency, should be used *only* during those emergency times, regardless of how effective the legislation may have been. The following excerpt demonstrates this belief:

The Home Secretary is on record as saying that the law on the prevention of terrorism ... has resulted in a diminution of terrorist activities in England. The police believe it too. ... Exactly what contribution the law has made is unquantifiable and for that reason there have been calls for the law to be abolished, on the grounds that any Act which so interferes with normal civil liberties should only be permitted if there is proof positive that it is achieving the object for which it was designed. It is also understandable that during a period of relative quiet, an Act which was originally passed in an atmosphere of considerable tension, in circumstances approaching an emergency, should be regarded with some suspicion. ... It is difficult to see how the Act can be applied without there being an attendant derogation from the rights to which persons held under the normal criminal law are entitled. ... For the time being, at least, continued trust must be placed in the opinion of the authorities who say that the Act is having some effect in combating terrorism. There is no evidence the other way, nor is it being suggested too strongly that the police are abusing the powers given to them. Nevertheless the operation of the Act must be carefully monitored, and scrutinized and debated by Parliament at regular intervals. It must not become a permanent part of our statute book through default or be nodded through year by year through apathy. ... Care must be taken that the Act does not outlive the emergency for which it is intended, or stand to be used, without express parliamentary procedure, against a threat of a different kind.²³³

This editorial, moreover, offers the example of the old Alien Act as proof that legislation intended to be used only for emergencies can outlive its usefulness or value and,

²³²Editorial, “CIVIL ORDER COMES FIRST”, *The Times*, 9 October 1971

²³³Editorial, “FOR EMERGENCY ONLY”, *The Times*, 25 August 1978

furthermore, as a sort of warning that if it has happened in the past, it could happen again, and to warn of the possible ramifications that could follow when emergency legislation is kept active longer than necessary.

An additional aspect of the research present throughout the entirety of the research period is that of concessions to terrorists, which are described in the editorials as something to be avoided. In other words, the editorial research demonstrates that editorial writers hold the belief that granting concessions to terrorists is not an option that should be explored by the British Government, and fully support their official position not to negotiate with, or offer concessions, to terrorists. Simply put, “there are no concessions to be given to violence”, and “negotiations under duress simply will not take place”, especially not when they have been demonstrated not to work.²³⁴ Therefore, to answer the question “whether to resort to concession or coercion” the editorials support the latter option.²³⁵

The most coercive policy adopted by the British Government to combat terrorism is arguably that of internment without trial. The editorials reflect a belief that internment may not be the best, or most democratic, strategy but that it is necessary under the circumstances. The following excerpt offers an example:

Internment without trial, or detention as it is now officially called, is running sore in the province. ... It is of great propaganda value to Irish nationalists and Britain's enemies, and since it is an undoubted derogation from standard conventions on human rights it is an embarrassment to Britain among her friends. Also, the internment question stands, or is repeatedly said to stand, in the way of political reconciliation in the province. There is a lot to be said for getting rid of it. But not as things now are.²³⁶

²³⁴ Editorial, “Sinn Fein Must Think Again”, *The Irish Times*, 12 October 1996

²³⁵ Editorial, “HALF WAY ROUND THE TABLE”, *The Times*, 25 September 1972

²³⁶ Editorial, “BOGGED DOWN IN ULSTER”, *The Times*, 17 October 1974

On the other hand, however, editorials also exhibit concern for how these coercive measures are implemented. For example, as the following excerpt demonstrates, even though certain policies adopted by Britain to combat the threat of IRA terrorism were deemed lawful, the editorials still plea for prudence in their application.

The treatment of these prisoners is fully justified in law and custom. It is justified also in the new case law of international human rights. The European Commission of Human Rights found that the convention which it interprets gives the prisoners no right to special status or to the main concessions they are claiming in respect of clothing, work, free association, visits and lost remission[s]. The commission enjoined the British authorities to be more flexible in the face of persistent breaches of prison discipline. They have responded to that injunction. It is not enough that a government has justification for its policies; it must choose them prudently; and the test of prudence is found in their consequences.²³⁷

In sum, although the editorials stress the importance of prudence in applying coercive counterterrorism measures, they still overwhelmingly support the British Government's policy of not granting concessions to terrorists, especially when it is found to be justifiable or lawful. Furthermore, and as discussed below, the editorial plea for prudence is also evident in the debate surrounding the potential reinstatement of the death penalty.

One of the more controversial topics regarding Britain's counterterrorism policies is the debate that surrounded the potential reinstatement of the death penalty. As discussed below, the editorial remarks regarding the death penalty are multifaceted in that they debate how the reinstatement of the death penalty would be within Britain's legal and moral ability, the extremely high level of public support for the reinstatement, and, lastly, how the reinstatement would not be beneficial for a number a reasons.

²³⁷ Editorial, "FIRMNESS IS FAIRNESS", *The Times*, 18 December 1980

As the following statement illustrates, the main reason why the editorials reflect a belief that the reinstatement of the death penalty is within Britain's legal and moral ability is that the editorials argue that combating terrorism is similar to fighting soldiers on the battlefield. For example, one editorial states, "we believe, therefore, that the morality of capital punishment in terrorist cases is at one with the morality of killing enemy soldiers in the conduct of justifiable and defensive war".²³⁸ While, however, the editorials state the reinstatement would be permissible, they also explicitly express the strong conviction that the death penalty should only apply to those convicted of terrorist offenses and not to other (i.e. common) criminals. To illustrate, one editorial claimed:

We do not believe that there is any case for reintroducing the death penalty for ordinary murders. ... Here we have a situation which is deliberately made into one of war against innocent civilians. At present the war is carried on by the IRA with security against any worse penalty than imprisonment, except for those who blow themselves up with their own bombs.²³⁹

It is important to recall that public opinion also strongly approved of the reinstatement of the death penalty in Britain, which is also addressed in the editorials. For example, editorials noted, "there will also be widespread public demand for the reintroduction of the death penalty",²⁴⁰ and also discussed public opinion poll results such as one which reflected an overwhelming majority [93%] of men and women in favor of "the execution of terrorists convicted of murder".²⁴¹ In short, while the editorials expressed the belief that "capital punishment for terrorist offences is both morally permissible, and feasible", they also thought that "it would be strategically damaging".²⁴²

²³⁸ Editorial, "Would the Death Penalty Help?", *The Times*, 10 December 1975

²³⁹ Editorial, "This Is an Act of War", *The Times*, 23 November 1974

²⁴⁰ *Ibid.*

²⁴¹ Editorial, "Retributive Justice", *The Times*, 20 June 1983

²⁴² *Supra* note 238

There are two main reasons why the reinstatement of the death penalty for persons convicted of terrorist offenses would be “strategically damaging”, or, in other words, a disadvantage to the overall counterterrorism battle. Firstly, as demonstrated by the following excerpt, it is argued that the reinstatement of the death penalty would not deter dedicated terrorists from carrying out further attacks and that it may, instead, even contribute to their commitment to their cause.

The availability of the death sentence on conviction of murder would add to that risk [i.e. add to the terrorists’ existing risk of being killed in the ‘course of their operations’] but not so decisively as to drive away many of those who had already accepted the risk. Some might drop out, some potential recruits might fade away, but for the secret armies quality matters more than numbers, and the average quality, if fanaticism is a measure, would not fall. If the understanding of deterrence is widened to include the defeat of terrorism among its objects, then the argument against executing convicted Irish republican terrorists gathers pace. It is not possible to conceive of circumstances in which the execution of death sentences imposed by British courts under normal safeguards provided by law would weaken the will or capacity of Irish republican organization committed to subversive violence. It is only too easy to imagine how judicial executions would harden their will and enhance their capacity to rebel. Modern Irish-British history tells the tale.²⁴³

While touched upon in the last excerpt, the second reason why the reinstatement of the death penalty would be a disadvantage to Britain is that it could serve as a means of recruitment or support for the terrorists. The following excerpt discusses exactly how that could happen:

It is clear that capital punishment for terrorists would lead to further terrorist outrages of one sort or another ... obviously if it cannot be shown that capital punishment will help in the main campaign these consequential casualties are merely a waste of lives. ... One only has to ask whether executions would or would not tend to isolate the IRA still further from their Irish Catholic communities to see that they could not do good. Therefore, it would be contrary to the major strategy of defeating the IRA to reintroduce capital punishment. That must be the conclusion. Capital punishment for terrorist offences is both morally permissible, and

²⁴³ *Supra* note 241

feasible, though it would cause casualties on our side, but it would be strategically damaging. It would give the IRA an advantage which it is not in our interests to give them. They would lose a comparatively small number of active men who, having been caught, would in any case be subject to long-term imprisonment but they would gain support that they could not otherwise gain. That is why most senior policemen and most senior Army officers and civil officials in Northern Ireland, and most senior policemen and the judges in England do not want capital punishment for these terrorists. Those who command the fight against the IRA believe that it would make the fight more difficult for them. ... The ability to catch them is more important than the punishment which is inflicted on them after they have been convicted. It would certainly be wrong to punish those we catch in such a way as to win support for their movement.²⁴⁴

In sum, while the editorials affirm that the British government would have had the ability to reinstate the death penalty, they stand firm in their belief that the disadvantages far outweigh the advantages, and hence, regardless of the feasibility of the reinstatement and the overwhelming public support in its favor, that it should not be considered because to enact such measures would only be detrimental to Britain's counterterrorism fight.

Turning now to an imperative facet of the counterterrorism fight, the British editorials also stress the importance of collaboration in combating terrorism. One, if not the main, reason why transnational cooperation is absolutely necessary to combat terrorism is the transnational nature of terrorism itself. One example of how this necessity was exhibited was in a discussion of the existing "high level of cooperation between the member-states of the [European] Community on the subject [of combating terrorism]" in the statement that "the relative ease with which political criminals can cross frontiers and the contacts which terrorist groups have with each other make it imperative that terrorism

²⁴⁴ *Supra* note 238

be treated not as [a] national but as a European and international issue, and that the fight against it should be coordinated in every effective way”.²⁴⁵

A notable aspect of cooperation examined in the editorials is that coordination in counterterrorism efforts, especially between Britain and Ireland, is perhaps best done covertly which is demonstrated by the following statement: “The two governments should consult and if possible concert their plans, though it is better for the health of Dr FitzGerald that they not be seen to do so. It was over-evident cooperation with the British in a matter of security that was part of Mr Jack Lynch’s [former *Taoiseach*] undoing”.²⁴⁶ This holds true even given the fact that editorials claim, “the effectiveness of any counter-terrorist policy in its security aspect depends crucially on Anglo-Irish cooperation, which in turn depends on how Britain deals with the unsettled minority in the North”.²⁴⁷ The last, and perhaps most important, aspect of cooperation addressed in the British editorials is that they describe terrorism as being a threat to the democratic system and democracies throughout the world, and as such, state their belief on the importance of cooperation to combat this threat against democracy in statements such as, “[it] is hard to see how democratic states can justify any cant which inhibits cooperation against so-called ‘transnational terrorism’”.²⁴⁸

One of the last aspects of the editorial response to Britain’s counterterrorism policies is that they caution that the counterterrorism battle will not be easily or quickly won, and as such, called for patience and unity in vigilance “if terrorism of this kind [in

²⁴⁵ Editorial, “The Terrorist Problems of Europe”, *The Times*, 1 June 1977

²⁴⁶ Editorial, “Two Cabinets: One Terrorism”, *The Times*, 22 December 1983

²⁴⁷ Editorial, “The Irish Dimension”, *The Times*, 29 October 1984

²⁴⁸ Editorial, “The Futility of Terror”, *The Times*, 31 October 1981

reference to IRA terrorism] is to be contained and in due time defeated”.²⁴⁹ This aspect of the fight against terrorism is also present even when discussing the successes of counterterrorism measures.

Even though the security forces have generally been successful in recent years in containing IRA terrorism on the mainland, it is no surprise that the organization retains the ability to make occasional attacks. They prove that vigilance is still necessary – though even then skilled terrorists will always find opportunities unless the whole country is to be turned into an armed camp.²⁵⁰

It is worth noting that even though the previous excerpt stresses the need for ongoing vigilance, it also highlights the fact that “skilled terrorists” will always have the ability to attack unless drastic measures are adopted by Britain, which illustrates the fact that Britons will have to decide between liberty and security if they ever want to completely eradicate the terrorist threat. This is remarkable especially due to the fact that even after the 7/7 attacks in London, “almost three-quarters of the public [73%] believe[d] that it is right to give up civil liberties to improve our security against terrorist attacks”.²⁵¹ This demonstrates that much of the British public agreed or believed that perhaps the best way to ensure liberty is through greater security measures.

The last aspect of counterterrorism addressed by the British editorials to be discussed here is that they call for the importance of not veering off track in the counterterrorism battle. In other words, they reflect the necessity of continuing to combat terrorism on all levels and from all terrorist organizations and not to lose the headway gained against one group due to an over-emphasis on another. For example, with regard to Catholic and Protestant terrorism, one editorial stated, “it should be possible to

²⁴⁹ Editorial, “An Outrageous Act”, *The Times*, 6 September 1975

²⁵⁰ Editorial, “Murderers Most Foul”, *The Times*, 21 July 1982

²⁵¹ Editorial, “Britons would trade civil liberties for security” *The Guardian*, 22 August 2005

condemn one without in any way minimising the other”.²⁵² Moreover, in the aftermath of the 7/7 attacks, the editorials reflected great concern for the stress placed on countering radical Islamic terrorism in exchange for continuing to combat IRA terrorism. One example making this evident is one in which how funds for the British intelligence agency, or MI5, are distributed is discussed, and it is mentioned that “since the [7/7] bombings, MI5 has been trying to divert as much of its resources towards countering the threat from radical Islamic terrorism”, and is called upon to redirect some of their efforts back to combating the IRA.²⁵³

In sum, as it has been made evident, the editorials reflect an agreement with Britain’s tough, seemingly legitimate, however questionable, counterterrorism measures. Although the editorials suggest that a hard-line approach to terrorism is necessary, they do, however, largely support these measures because they have been deemed lawful. Moreover, the editorials also express the need for caution or prudence in the application of counterterrorism measures so that they do not backfire and end up causing more detriment than benefit. This reflects, to some extent, that the editorials are fairly balanced when discussing counterterrorism measures and the threat terrorism poses, at least when the measures fall under, or are covered by, existing laws or when new legislation can be created to make them lawful.

To conclude this section, a review of how the data on editorials fit into the moral panics model needs to be examined. While it is true that the editorials do acknowledge the substantial threat of terrorism, meeting the criterion of a heightened level of concern, they also overwhelmingly emphasize the importance of staying within the framework of

²⁵² Editorial, “A murderous Loyalism”, *The Independent (London)*, 5 January 1993

²⁵³ Evens, Michael, Defence Editor, “Stretched MI5 told to redouble efforts against Real IRA”, *The Times (London)*, 22 May 2006

the Spanish democratic system to combat this threat which does not reflect an increased level of hostility, disproportionality, or volatility. In other words, the data from the Spanish editorials largely does not appear to fit the moral panics model. The case of the United Kingdom reflects the opposite. While it is true that some of the U.K. editorial data reflect the need for prudence in the counterterrorism battle, the data express a larger amount of support for controversial measures, including those that could potentially violate civil liberties, if they are included in the British counterterrorism legislation. This reflects an increased level of hostility, a heightened level of concern, volatility, widespread agreement that the threat is real, and disproportionality, or, in other words, all of the indicators of a moral panic.

Chapter 5: Security Forces Data

This section reviews the role of “agents of social control or law enforcement” in creating a moral panic. According to Rothe and Muzzatti:

As those responsible for the enforcement of norms, codes of conduct, and law, rule enforcers are a vital part of the moral panic. These groups/organizations, particularly the police, prosecutors, and the judiciary are expected to detect, apprehend and punish the folk devils. These agents present the social situation as one that teeters on the brink of chaos if it were not for them, deviance/crime and all that it entails would abound. They present themselves as the ‘thin blue line’, which separates order and civilization from mayhem and anarchy. Depending upon the content and strength of the discourse, it often includes calls for increased numbers of rule enforcers and more extensive authority (i.e., greater power) for them.²⁵⁴

While in the literature on moral panics, “law enforcement” refers to members of non-military security forces (e.g. police forces) and members of the judiciary who create laws to support these forces, due to the fact that both Spain and the United Kingdom have, at least on occasion, used their military forces as a part of their counterterrorism approaches, their military forces are also included in this discussion. This inclusion is especially necessary given the fact that the military forces were utilized when the, actual or perceived, threat of terrorism was considered exceptionally severe that additional force, if only to the extent of joint operations, was deemed necessary. Moreover, this inclusion is warranted given the fact that “the creation of a moral panic can assist ‘in the

²⁵⁴ Rothe and Muzzatti, 329

development of special squads and task forces”²⁵⁵ Additionally, much like a number of other democratic countries, there is no doubt that security forces within Spain and the United Kingdom have used extralegal or extreme, however, legal, measures in the fight against terrorism.²⁵⁶ Scholars of the theory of moral panics offer various suggestions concerning the security forces that are useful to help account for the use of extralegal or extreme, however, legal counterterrorism measures. For example, Cohen writes, “the police, because of public support for the use of violence against criminals ... can use an audience to legitimize illegal forms of violence”.²⁵⁷ Goode and Ben-Yehuda additionally write:

Efforts are made by officers to broaden the scope of law enforcement and increase its intensity; punitive and overly zealous actions already taken are justified on the basis of the enormity of the threat the society faces ... the thinking among agents of social control is that ‘new situations need new remedies’; a natural problem called for a drastic solution and often this entailed suspending rights and liberties previously enjoyed.²⁵⁸

Spain

The research on Spanish security forces and their role in counterterrorism reveals a number of common themes. These include: support for the security forces, allegations of misconduct or of operating outside of the rule of law, and how security forces were often targeted by terrorists.

²⁵⁵ Jenkins, 200

²⁵⁶ For purposes of this thesis, the term “security forces” includes all members of legitimate armed forces employed in the ambit of protecting and serving non-combatant citizens, including, members of the police forces, all branches of the military, and other agents of the state operating under the auspices of protection of the country (e.g. members of the intelligence community).

²⁵⁷ Cohen, 2002 p. 135

²⁵⁸ Goode and Ben-Yehuda, 27

Before discussing the data on Spanish security forces, it is advantageous to give a brief overview of the organization and structure of the Spanish security forces.²⁵⁹ It is “only with regard to the competent police authorities [that] Spanish law makes a difference between international and national/regional terrorism. The regional police authorities are competent for terrorist activities on the regional level, while the struggle against terrorism on the national and international level is the task of the national police authorities (*El Cuerpo Nacional de Policía*) or the *Guardia Civil*”.²⁶⁰ Furthermore, “security on a national level in Spain is planned via the Ministry of the Interior and the Ministry of Justice”.²⁶¹ The Municipal police are “responsible for local maintenance of public order [in] towns of over 20,000 population”.²⁶² It is worth mentioning that Organic Law 2/1981, “on Defense of Democracy”, makes “the crime of rebellion equivalent to a crime of terrorism, given that both cases [have their] aim as the destruction of the constitutional order”.²⁶³ As a final note, the *Guardia Civil* can legally act as a military force in “determined circumstances”, and is “administratively part of the Army but ... placed in the Ministry of the Interior’s chain of command”.²⁶⁴

Before discussing how the Spanish security forces were publically supported it is important to note that the security forces encountered numerous problems during the first years of Spain’s transition to democracy. Due to these problems, which largely consisted of issues or problems of command and organization, in 1981, “a single centralized

²⁵⁹ For a comprehensive review of the organization and structure of Spanish security forces, refer to Organic Law 2/1986, of 13 March, on “Security Forces and Bodies” (“de Fuerzas y Cuerpos de Seguridad”).

²⁶⁰ Soria, 534

²⁶¹ [Valiño and Heijs, 81](#)

²⁶² Jiménez 1993, 126

²⁶³ Ramírez and Malorée, 271

²⁶⁴ [Organic Law 2/1986, of 13 March, on “Security Forces and Bodies”, Schmid and Creslinsten, 125-126](#)

command for the fight against terrorism, known as *Mando Unico para la Lucha Contraterrorista* [sic] was created”.²⁶⁵ It merits mention that this command was originally created in 1977 by former Prime Minister Adolfo Suarez due, in part, to the assassination of Carrero Blanco, Franco’s presumed successor.²⁶⁶

To look first at how Spanish security forces were supported in their counterterrorism initiatives, the research demonstrates that they were supported in a number of ways including: by discussing and publishing their successful operations, especially when they are able to overcome obstacles to achieve these successes, establishing a culture of support, and by justifying their actions, legal or otherwise, through the demonization of the terrorist attacks and the terrorists themselves. To begin the discussion as to how the security forces’ successes were utilized to garner support, the following examples are illustrative: “The police in many occasions have dismantled ETA”,²⁶⁷ “The disarticulation of the *Araba* command of ETA – which has been attributed to 39 murders in the last years – the detention of practically all of its collaborators and the seizure of an abundant arsenal of arms and other materials that serve to carry out and camouflage their criminal acts constitutes a priceless and brave police success”,²⁶⁸ “Nearly 200 terrorists or collaborators have fallen in clashes with security forces or have died when the bombs they prepared for others exploded in their own hands or in attacks of the terrorist group GAL, that acted in the second half of the 80s”.²⁶⁹ As the examples demonstrate, the successes achieved by the Spanish security forces in combating

²⁶⁵ Reinares and Jaime-Jiménez, 133

²⁶⁶ http://www.elmundo.es/eta/lucha_antiterrorista

²⁶⁷ Uriarte, Eduardo, “Consideraciones sobre el plan ZEN”, *La Tribuna* (reprinted in *El País*), 9 August 1983

²⁶⁸ Editorial, “La horma de ETA”, *El País*, 19 September 1989

²⁶⁹ C.A./J.A.R., “La banda terrorista ha asesinado a 789 personas”, *El País*, 29 March 1993

terrorism were a key part in determining their support as they appeared to be making strides in combating and eradicating the threat of terrorism. Moreover, highlighting their successes in light of the difficulties they encountered also generated support for the security forces. For example, “the Armed Forces have advanced a lot in all these years. Probably, keeping in mind the circumstances that the Executive had to face before and in the first years of the democracy, few Spanish institutions have advanced so much in so little time”.²⁷⁰

Another way in which support for the Spanish security forces was acquired was through the attempt to create a “culture of defense”,²⁷¹ in which Spaniards would “achieve the love, the affection, the fraternal attention of the Spanish public toward its soldiers”.²⁷² Moreover, clear guidelines on how to achieve this “culture of defense” were given. For example, General Ascanio recommended that the military could “achieve this ... [by having] an attitude above any policy, its identification as a guarantor of constitutional order and the profession of honor in each and every one of its actions”.²⁷³ Furthermore, high ranking members of the security forces recognized the fact “that it is very difficult for citizens to accept military costs if they do not know what [purpose] they serve”, and others cautioned that “if we want to have Armed Forces equal to our economic potential, demographic and the weight of Spain in the European Union, we will have to dedicate more to the Defense budget”.²⁷⁴

²⁷⁰ Caño, Antonio, “El Ejército de Zapatero”, *El País*, 30 May 2006

²⁷¹ *Ibid*

²⁷² “Tenemos que conseguir que el pueblo quiera a su Ejército” dijo el general Ramon Ascanio y Togados”, *El País*, 6 January 1983

²⁷³ *Ibid.*

²⁷⁴ Caño, Antonio, “El Ejército de Zapatero”, *El País*, 30 May 2006

An additional significant aspect of how Spanish security forces were supported regards the support for their questionable, even extralegal, actions. For example, some contended “what is qualified as *political repression* [emphasis in original] is simply persecution of the delinquents in the search for terrorists”, which was supported by stating that “the police have reached a degree of efficiency in the persecution of terrorism that had never been reached in previous years”.²⁷⁵ An additional example is that “the only real trap is not understanding that against such an enemy [one who uses “terrorism as an instrument of revolutionary war”] there is not more than one answer: defeat it as soon as possible and by all means”.²⁷⁶ Furthermore, it was even contended, “the best tribute to their [members of the Armed Forces who have lost their lives in the fight against terrorism] memory and sacrifice is the compact, decided, and seamless union of all Spaniards, without distinction of groups, associations, institutions or parties, to achieve the isolation of terrorism and its total elimination”.²⁷⁷

As previously mentioned, Spanish security forces were often the targets of terrorist violence. Moreover, given that the security forces have the duty to protect civilians, just the nature of the terrorist attacks against the security forces themselves was a means to generate support. This is due to the fact that if the terrorists could attack the security personnel that could translate into the belief, not uncommon in terrorist strategy, that all were vulnerable to a potential terrorist attack. This appears especially true in the case of Spain due to the large number of deaths of Spanish security forces attributable to

²⁷⁵ EFE, “La delegación del Gobierno en el País Vasco critica a las gestoras pro amnistía”, *El País*, 6 January 1985

²⁷⁶ de la Cuadra, Bonifacio, “Exhaustivo recuento de delitos, víctimas y alarmas por parte de Fraga”, *El País*, 11 September 1978

²⁷⁷ “El Ministerio de Defensa anuncia reformas en la política de personal militar para 1980”, *El País*, 29 December 1979

ETA terrorist attacks. Or as phrased in one article, “another large group of deaths [due to ETA terrorist attacks] are the members of the *Guardia Civil* and police”.²⁷⁸ It must be mentioned that not only were *Spanish* security forces targeted by ETA, but Basque security forces, the *Ertzaintza*, were as well. Moreover, it was originally believed that “the killing of members of law enforcement [would] be more difficult when the Basque autonomous police [took] over missions that ... the National Police or the *Guardia Civil* [were] assigned”.²⁷⁹ Even though “various senior police [officers] stationed in the Basque Country ha[d] been victims of terrorism” before, this belief changed with the first murder of a member of the Basque autonomous police force as it was quickly realized that the threat of terrorism would not quickly disappear even with the creation of a Basque police force.²⁸⁰

One of the reasons why Spanish security forces were the victims of terrorist violence is due to the fact that they were, in some respects, an easy mark. For example, members of the Spanish security forces were targeted in restaurants “because they still went there to eat in uniform” which made them very easy targets to spot.²⁸¹ Moreover, the previous quote illustrates how security forces were forced to alter their habits or lifestyles in order to lower the possibility that they would become a victim of terrorist violence. It should be mentioned, however, that even in light of the fact that ETA was successful in carrying out some terrorist attacks against members of the security forces,

²⁷⁸ Espada, Arcadi, “Aquel año de un muerto cada 60 horas”, *El País*, 27 August 2000

²⁷⁹ Editorial, “Terrorismo e independentismo”, *El País*, 17 May 1980

²⁸⁰ “El primer atentado mortal contra la Ertzaintza”, *El País*, 8 March 1985

²⁸¹ Espada, Arcadi, “Aquel año de un muerto cada 60 horas”, *El País*, 27 August 2000

the security forces did have a number of successes in foiling several terrorist attacks planned against them.²⁸²

In sum, there were a variety of ways in which Spanish security forces were supported including: through the publication of their accomplishments, in the establishment and support of a “culture of support” for the security forces, and due to the fact that the security forces themselves were targets of terrorist violence.

Turning now to how Spanish security forces were not supported in their counterterrorism initiatives, a number of significant aspects are present in the research. These include: allegations that the Spanish security forces operated outside of the rule of law, which included engaging in a dirty war, and holding them accountable for their actions. To address the allegations that the Spanish security forces operated outside of the rule of law in at least some of their counterterrorism operations, the following two subjects are discussed: violations of civil liberties or constitutionally protected rights and questionable deaths perpetrated by the security forces.

Spanish security forces engaged in actions that violated a number of different rights protected in the Spanish Constitution or by other Spanish laws. The most extreme cases of these violations include: infringing upon the right of the inviolability of the home and interfering with protected communications. Looking first at the cases in which Spanish security forces violated the right of the inviolability of the home, protected by Article 18(2) of the Spanish Constitution, there were multiple cases in which this right was infringed upon due to searches carried out under the Antiterrorism Law which

²⁸² See for example: Barbería, J.L., “La policía cree que el ‘comando Oker’ pretendía atentar contra el ministro del Interior”, *El País*, 23 October 1985

“effectively suspends the inviolability of the home”,²⁸³ as its Article 16 “permits security bodies and forces to detain alleged terrorists without previous judicial authorization”.²⁸⁴ The other example of violations of rights is that of interfering with protected communications, specifically those between a prisoner and their lawyer. The confidentiality of these communications was debated a number of times in the Spanish Constitutional Court which ruled, “article 51.2 of the General Penitentiary Organic Law authorizes only the judicial authority to suspend or intervene, in a reasonable and proportionate way, the communications of the intern with their lawyer without any authorization in any case to the penitentiary Administration to interfere with these communications”.²⁸⁵ Furthermore, the same court ruled that not even the communications of terrorists, a significant source of contention, could be interfered with “without expressed mandate from the judge ever again”.²⁸⁶

Turning now to other serious allegations of misconduct committed by the Spanish security forces, the questionable deaths the security forces were involved in and their dirty war tactics, including the actions of the Antiterrorist Groups of Liberation (GAL) are addressed.²⁸⁷ A number of allegations were made against members of the Spanish security forces for the use of excessive force, including the wrongful deaths of a number of people. Just one example of such is how in 1988, “a plain-clothed member of the Civil

²⁸³ Editorial, “El Gobierno y las garantías constitucionales”, *El País*, 9 April 1983

²⁸⁴ Editorial, “La ley y la bomba”, *El País*, 24 May 1988

²⁸⁵ Duva, Jesús, “El Constitutional prohíbe interferir la comunicación entre terroristas y abogados sin mandato judicial”, *El País*, 25 June 1994

²⁸⁶ *Ibid.*

²⁸⁷ The phrase, “dirty war”, is the most commonly used phrase to describe the actions of the GAL and it is the one used in this thesis. However, it should be noted that, “in 1991, a Madrid court ruled that the crime of terrorism only existed if the aim was to destroy democracy. Groups like the GAL, which claimed to be defending democracy, could not be defined as terrorist even if, as the court so delicately put it, they used ‘reprehensible methods’” (Woodworth 2005, 76).

Guard, in a trivial discussion, killed a youth, Miguel Ángel Aguilar, and seriously injured another, Felipe Martín”.²⁸⁸ Highlighting the fact that these wrongful deaths were not isolated cases is the fact that there is even an association comprised of “members [who all] have in common the death of some family member or friend by the disproportionate reaction of some member of the police, Civil Guard or security guard”.²⁸⁹

The actions of the GAL include some of the better-known cases of misconduct, which are even tantamount to actions of state-sponsored terrorism or dirty war actions, carried out by some members of the Spanish security forces on Spanish and French territory in the 1980s.²⁹⁰ The actions of the GAL were reprehensible not only because they constituted a dirty war, or because it took nearly a decade for the Spanish Government to admit its actions, but also because the actions taken by the GAL only supported ETA and its ambitions. To illustrate, an *El País* editorial claimed, “the matter of the GAL ha[d] not been unearthed because it was never buried. And it was not because no one, of power, ever recognized [at least not until 1994] that the GAL were a tremendous political error, moreover a criminal botched job”.²⁹¹ Which, furthermore, led to the fact that “ETA was never closer to triumph than in those years of the GAL ... [and] the only thing one can claim from the Government is justly that the GAL disappeared, while ETA has continued killing”.²⁹²

The members of the GAL, however, were not able to escape impunity. While it did take a substantial amount of time, those accused of collaborating with, or taking part

²⁸⁸ Manzano, Andrés, “Para que no vuelva a ocurrir”, *El País*, 27 June 1990

²⁸⁹ *Ibid.*

²⁹⁰ It is worth noting that some argue, “it seems that from the beginning the death squads were working to an agenda aimed less at decapitating ETA than persuading Paris to abolish the group’s ‘French sanctuary’” (Woodworth 2005, 72).

²⁹¹ Editorial, “El Gobierno no puede seguir callado”, *El País*, 21 December 1994

²⁹² *Ibid.*

in, the GAL were held accountable for their actions, at least for the most part, albeit there were some who claimed that they did not receive sufficient punishment. It must be noted that not many were safe from prosecution if they had been involved in the GAL controversy. Police officers, the former Director General of State Security, Julián Sancristóbal, and the Minister of Justice and of the Interior, Juan Alberto Belloch, all were ordered detained and had to appear in court and some were even convicted for their affiliation to, or involvement with, the GAL.²⁹³ As aforementioned, there was some contention regarding the convictions of those connected to the GAL. For example, Sabin Intxaurreaga, Minister of Justice of the Basque Government, “reminded that those ‘implicated in the GAL have been indicted and condemned for direct participation in crimes of the State and should carry out their sentences’ [and furthermore] ... added that the treatment that those accused of actions of the GAL ‘should be the same that persons implicated in the terrorism of ETA receive’”.²⁹⁴ On the other hand, however, there were those who believed the members of the security forces should receive harsher punishments than convicted terrorists.²⁹⁵ Importantly, there were also accusations that convicted members of the security forces had not served their time in jail. For example, a “member of the Civil Guard that fired [his gun and killed a youth] was condemned to five years [in jail]”, but was known to be continuing his military service in Guadalajara instead of serving his prison sentence.²⁹⁶

²⁹³ See for example: Editorial, “La ley y la bomba”, *El País*, 24 May 1988; Editorial, “El Gobierno no puede seguir callado”, *El País*, 21 December 1994; Valdecantos, Camilo, “El PSOE da un vuelco en su postura y acepta que Belloch hable hoy mismo de los GAL en el Congreso”, *El País*, 30 December 1994

²⁹⁴ “El PSOE confía en que los tribunals acaben reconociendo la inocencia de los condenados”, *El País*, 13 August 1998

²⁹⁵ See for example: Editorial, “El terrorismo, ante el Congreso”, *El País*, 3 November 1983

²⁹⁶ Manzano, Andrés, “Para que no vuelva a ocurrir”, *El País*, 27 June 1990

The GAL were by no means the only groups to use dirty war tactics against ETA. An additional example of a group that utilized dirty war tactics used against ETA is that of the Basque-Spanish Battalion (*Batallón Vasco – Español* or BVE) that operated from 1975-1981. The BVE “targeted ETA members and many ordinary Basque citizens as well. Its death squads were largely made up of mercenaries, directed by members of the security forces”.²⁹⁷ Furthermore, some argue, “in every sense, the BVE was the prototype for the GAL”.²⁹⁸ Additional examples of groups that engaged in dirty war tactics include: “special operations groups and antiterrorist units from both the National Police (*Grupos Especiales de Operaciones*), [the Special Operations Groups] and the *Guardia Civil* (the *Unidades Antiterroristas Rurales*) [the Rural Antiterrorist Units], [that] were deployed in the Basque Country” in 1980.²⁹⁹

To conclude this section, it is important to recall that it is in fact the case that Spanish security forces have, on numerous occasions, operated outside of the rule of law or used questionable, albeit legal, measures to combat the terrorist threat. It is, moreover, equally important to highlight the fact that these situations occurred either during the transition to democracy or in the early years of Spanish democracy, and “that during the immediate post-Franco and the democratic transition periods, security agencies and security agents were those of the previous authoritarian regime”.³⁰⁰ With that being said, it is possible to state that there is some evidence that the Spanish security forces have, perhaps, learned from their past lessons and have made an effort to work within the framework of a democratic society. For example, the Spanish Government itself was

²⁹⁷ Woodworth 2005, 67

²⁹⁸ Encarnación, 961

²⁹⁹ Alonso and Reinares, 273

³⁰⁰ Reinares 2003, 65

condemned to paying indemnifications to the victims of a terrorist attack because “it was said in this case the negligence of the State Security Forces’ actions was the responsibility of the Administration”.³⁰¹ Furthermore, regarding how certain actions were kept secret (e.g. the GAL operations) an accord was signed “that would guarantee that possible criminal acts or excesses of injuring people would not go unpunished not even at the margin of the acts of the judges”, however, this “accord [was] not retroactive and, therefore, it [did] not affect the actions of the *dirty war* [emphasis in original] against ETA, such as the GAL and others, ... under judicial investigation”.³⁰² One last example regards “flights investigated by the *Guardia Civil* in Palma de Mallorca, allegedly used by the CIA to transfer prisoners related to terrorism of Islamic origin” in which it was stated, “these activities are declared illegal in our legal system and therefore the Spanish authorities do not accept that they are carried out in its territory”.³⁰³ Lastly, one editorial claimed, “the only way to prevent the occurrence of the deterioration of the morale of the law enforcement, with its negative repercussions for the democratic institutions, is precisely that light is shed over the darkness, that to many seem artificial, that surrounds this unpunished criminality”.³⁰⁴ In other words, while the Spanish had long reminded security forces to remain within the democratic system, perhaps after confronting their own demons, they were able to realize the importance of doing so.

³⁰¹ “El Estado, condenado a indemnizar a 12 víctimas de Hipercor con 112 millones”, *El País*, 7 July 1995

³⁰² Editorial, “Secreto y antiterrorismo”, *El País* 23 March 1996

³⁰³ Manresa, Andreu, and Pardellas, Juan M., *El País*, “El Gobierno canario pide explicaciones sobre vuelos de la CIA en Tenerife”, 16 November 2005

³⁰⁴ Editorial, “El terrorismo también veranea”, *El País*, 29 August 1978

United Kingdom

Before discussing the actions and support for the U.K. security forces, a brief overview of how counterterrorism in the U.K. works is given. “In the United Kingdom, the home secretary is responsible for all security and counterterrorism issues. ... [Moreover,] even though Scotland and Northern Ireland have independent police forces ... they are subordinate to the home secretary on terrorism policy”.³⁰⁵ Furthermore,

[W]ithin the Home Office, responsibility for terrorism police falls under the Organized and International Crime Directorate. Within.... [which] is the Terrorism Protection Unit (TPU), which is itself split into different sections dealing with, *inter alia*, Irish terrorism, international terrorism, contingency planning, and domestic terrorism.... In line with Britain’s consideration of terrorism as a criminal act, responsibility on the ground for responding to a terrorist act within the United Kingdom falls to the chief constable of the relevant fifty or so police authorities. The police may then call in whatever additional resources they deem necessary, be it fire department, ambulance, ... local and national government, intelligence, ... or military. However, any decision to launch an assault against terrorists requires ministerial approval. Within the United Kingdom, it is the FCO [Foreign and Commonwealth Office] and its Counter Terrorism Policy Department that have the lead role on international aspects of terrorism.³⁰⁶

Turning now to the data on U.K. security forces, similar to the case of Spain, there is no doubt that security forces within the United Kingdom have used extralegal or extreme, however, legal, measures in the fight against terrorism. The research on security forces identifies a number of different themes which can be broken down into two main categories: support for the security forces and their actions and the lack of support for the security forces and their actions or inactions.

Before reviewing how security forces were or were not supported in their fight against terrorism, a brief discussion of actions taken and the situation in which these

³⁰⁵ Taylor, 190

³⁰⁶ Taylor, 190-196

actions were taken is necessary. These include: the legal, political, and security measures taken by the security forces or put in place to aid the security forces in the fight against terrorism, increasing troop numbers, the security forces' relationship with the public and media, and lastly, structural or organizational problems with the security forces. Throughout the course of the fight against terrorism in Britain a number of different legal and political measures have been instated to aid the security forces against terrorist threats. A more comprehensive examination of these measures is discussed in the chapter on legislative data, but a brief review is discussed here, which includes the use of internment and corresponding interrogation tactics, and increasing the number of security forces, including the use of special forces.

The use of internment is perhaps the most well known extreme measure employed by the British in the fight against terrorism and while the use of internment can be, and often is, considered deplorable in retrospect, at the time of its implementation it was viewed to be essential to combating terrorism. Even more appalling are some of the measures used against suspected terrorists which included: employing extreme interrogation methods such as sensory deprivation to extract confessions or information from suspected terrorists which were later "condemned as torture by the European Commission of Human Rights."³⁰⁷ However, some claim that the "principles governing interrogation", which was the responsibility of the Royal Ulster Constabulary (RUC), were never "more than guidelines. They have never had and do not have the force of law", which would, therefore, make the use of them against the law.³⁰⁸ Lastly, these measures and others were periodically reviewed to ensure that they continued to meet the

³⁰⁷ Tendler, Steward, "Ulster interrogation is condemned as torture", *The Times*, 3 September 1976

³⁰⁸ Editorial, "The limits of special powers", *The Times*, 25 January 1971

needs of the security forces or, in other words, as phrased by *The Times*, “present procedures ... [were] examined to see whether they [the powers of the security forces provided under the law] could be amended or improved to assist the security forces”.³⁰⁹

A discussion of troop numbers also provides insight into how security forces were employed in the fight against terrorism. The number of troops often varied and was increased numerous times to support counterterrorism initiatives. Security forces were also called to help rebuild other forces’ stations when they were attacked by terrorists and troops were additionally used to guard “essential services”, or critical structures, such as waterways or treatment plants, especially those in rural areas, from terrorist attacks.³¹⁰ Given the previous discussion as to the importance of unemployment as a concern of the British, it is noteworthy to mention that the rate of unemployment served as a significant factor for bolstering the number of security forces as it made recruitment efforts easier.³¹¹

To better understand the situation security forces in Britain at times found themselves in, a brief review of their relationship with the media is addressed. Though security forces throughout the democratic world would perhaps prefer to have their actions hidden from public scrutiny, if only for purposes of gathering and maintaining classified intelligence, with the possible exception of “matters of national security” in Western democracies, with their freedoms of press and speech, this is extremely difficult, if not impossible, to do. Complicating security forces’ legitimate operations further is the fact that the media and the military often do not have each other’s best interests at heart

³⁰⁹ “Army and police in Ulster tired of politically motivated criticism”, *The Times*, 28 March 1976

³¹⁰ Stanhope, Henry, “Army believes tactics in Ulster may switch from terrorism to civil protest and disobedience”, *The Times*, 8 February 1972; For further examples regarding rebuilding structures see for example: Webster, Philip, “More troops for Ulster to combat IRA attacks”, *The Times*, 31 December 1985; for providing security to important infrastructures see for example: “More British troops going to Ulster, *The Times*, 26 April 1969.

³¹¹ Editorial, “Fear in Fermanagh”, *The Times*, 25 September 1980

which can, and often does, lead to deception or manipulation by one or both parties. This can be especially detrimental to the security forces when they are trying to win “the hearts and minds” of the public and the media turns public support against them. Examples of how the media assailed the security forces vary from engaging in “psychological warfare” in which “the Army regard[ed] the work of the British press in Northern Ireland as actively destructive of the military campaign”,³¹² to allegations that some media outlets paid “youngsters to throw stones at the security forces and then televis[ed] them”, which would make it appear as if the security forces were disliked or even hated.³¹³ It should be noted that while the police were targeted by youth, especially in the early 1970s when, “the army was clashing regularly with Catholic youths”, the point here is to highlight the fact that the media fabricated some stories to the detriment of the security forces.³¹⁴ It must also be mentioned that the media were also criticized for their failure to report attacks against security forces, especially when more “newsworthy” stories were available. For example, a bombing, in which six persons were killed and 90 were injured, at the London department store, Harrods, received international publicity while news of a murdered soldier and policeman in the Irish Republic, not unlike most other murders there, did not.³¹⁵ Lastly, security forces were often present at marches and protests in which they used a number of different methods of policing, including flying military helicopters over the marches, and while the security forces themselves were responsible for their actions, the media did not hesitate to exploit them.

³¹² Fisk, Robert, “Army regards press as destructive in Ulster, papers show”, *The Times*, 24 February 1976

³¹³ Noyes, Hugh, “The Ulster Crisis: Foot backs government policy”, *The Times*, 6 May 1981

³¹⁴ Taylor, 217

³¹⁵ “Home Secretary hesitant over banning Provisional Sinn Fein”, *The Times*, 20 December 1983

In addition to the apparent lack of support often depicted by the media toward the security forces, they also encountered a number of organizational or structural problems. These problems largely include, *inter alia*, how troops were mobilized and the number of troops available. To illustrate, the “apparent lack of control by police during ... riots was caused largely by their being outnumbered”, and while it would be near impossible to have a larger number of security forces than civilians except in an extreme police state, the fact that only about one-seventh of the “force ... [could] be mobilized at any one time in a trouble spot” only exacerbated this problem.³¹⁶ Another problem is the fact that security forces were often stretched too thin, or as described by *The Times*, they had “other things to do”. As noted above, the security forces were at times employed in non-counterterrorism missions which meant they often did have “other things to do”, and as such their overall ability to combat terrorism was hindered.³¹⁷ Lastly, in addition to the aforementioned problems, security forces also experienced problems such as jailbreaks, in which suspected or known terrorists were able to escape from jail due to “deficiencies in the physical security of the prison”, which meant that their efforts had essentially been wasted, not to mention the fact that this meant their resources would have to be divided up in order to not only capture terrorists who had not been jailed but also to re-capture those who escaped.³¹⁸

As should now be apparent, security forces, regardless of their actions, did face a number of problems that were, or would have been, quite difficult, if not nearly impossible, to overcome. This, however, is not meant to condone their actions but rather to highlight some of the problems they were faced with in order to help put the following

³¹⁶ Chartres, John, “Ulster calls up police reservists”, *The Times*, 7 Jan 1969

³¹⁷ Editorial, “The bombs come to London”, *The Times*, 9 March 1973

³¹⁸ Editorial, “Mr Prior and the maze”, *The Times*, 8 February 1984

examination of their support, or lack thereof, into perspective. The lack of support for security forces is largely due to their misconduct, or allegations of such, the fact that many members of the security forces were not charged for their extralegal actions, and other general examples of lack of support for the security forces.

One of the major reasons why security forces were not supported in the fight against terrorism was because they were deemed to be transgressing the confines of their normal duties and, moreover, there was wide-spread perception, correct or not, that the security forces were not being held accountable or liable for their actions. The allegations of misconduct were extensive, and it is worth noting that according to some opinion polls, over a quarter of those polled “declared the British Army to be ‘generally cruel and brutal’”.³¹⁹ Furthermore, it was widely perceived that the British Government ignored these allegations of misconduct due to the lack of serious inquiry into the security forces' actions. Some of the allegations were, however, investigated by Amnesty International which claimed, “most allegations [of abuse] were against detectives. A few allegations were against the Army but hardly any were against uniformed members of the RUC”, and, moreover, they did find some evidence to substantiate the claims.³²⁰

In addition to the claims of misconduct, security forces were also condemned for what appeared to be apparent, or blatant, amnesty for their actions. Even in the cases in which inquests into security forces' actions were held, their legitimacy, and proportionality, remained questionable. For example, an inquest into the death of "a loyalists shot by the Royal Ulster Constabulary in 1981", held a decade after the incident, "did not remove suspicion that the RUC had without reasonable cause killed a young

³¹⁹ Bates, Sir David, “The unification of Ireland”, *The Times* Letters to the Editor, 16 May 1978

³²⁰ “Amnesty Report/Ulster: Beatings, humiliation and threats alleged by arrested suspects against RUC”, *The Times*, 14 June 1978

man", and furthermore, "the cloud of suspicion, as in the cases of other loyalists killed by security forces, will never be cleared unless there are full and frank inquiries into the whole 'shoot-to-kill' operations".³²¹ One example of how these inquests were often questionable is exemplified through the use of "public interest immunity certificates", which permitted "coroners to allow members of the security forces to give written statements rather than attend inquests".³²² While the "shoot-to-kill" operations are controversial, it is argued that, "snatch squads' were developed to arrest instigators, and the army warned that it might have to shoot to kill in order to defend itself from attacks [launched by Catholic youths] with firebombs and bricks".³²³

While there are many examples of police brutality or misconduct, the most well known example is perhaps that of Bloody Sunday in which 13 civilians lost their lives due to an overreaction by the military at a march in 1972. Further exacerbating the perception of the security forces is the fact that "the soldiers who fired or might have fired the shots were exculpated".³²⁴ It merits mention that the events of Bloody Sunday did not constitute the only time in which security forces were viewed to engage in misconduct or appear overbearing in their actions or presence at marches and, in fact, on numerous occasions security forces were present at marches to "deter any active trouble-maker from trying to exploit the situation".³²⁵ Furthermore, military helicopters were often used to keep an eye on the marches and to "take pictures of the event which ... [were] later ... scrutinized by intelligence officers", which was done in part due to the

³²¹ Bowcott, Owen, "Redress sought for army killings", *The Guardian* (London), 22 April 1991

³²² *Ibid.*

³²³ Taylor, 217

³²⁴ Editorial, "Temporary lull", *The Times*, 21 December 1974

³²⁵ Chartres, John, "Ulster demonstrators plan further civil rights marches", *The Times*, 30 November 1970

fact that in 1984, “a man died as they [the police and Army] charged through the crowd in a vain effort to arrest Mr Martin Galvin of Noraid”.³²⁶ It is worth mentioning that military helicopters “were present” at the march that it now known as Bloody Sunday.³²⁷ The second most well known example of misconduct is perhaps the shooting in Gibraltar which “led to the deaths of three unarmed IRA members, shot by the SAS [Special Air Services, a component of the U.K. Special Forces] under MI5 control”.³²⁸ The Gibraltar killings were considered controversial and the British Government was even accused “of violating the right to life when [the] three unarmed members of the IRA were shot dead by the SAS in Gibraltar”.³²⁹

An additional example of how the police engaged in misconduct regards how the police fabricated terrorist threats. One example of such is that of the Old Trafford threat. In this case, “400 officers from over four police forces ... raided half a dozen houses, flats, and businesses in and around Manchester”, and due to various Manchester United paraphernalia, including past tickets to games, the police unofficially leaked to the press that there was a plan to “launch an audacious bomb attack on Old Trafford stadium on match day”.³³⁰ While this story was leaked to the media by unofficial police sources, “the Manchester police ... encouraged the story to run by issuing public statements that ... could be read as corroborating the story”.³³¹

³²⁶ Jones, Tim, 116 Noraid members join rally for IRA”, *The Times*, 12 August 1985

³²⁷ Jones, Tim and Walker, Christopher, “MPs among 30 to be prosecuted after peaceful march by 25,000 in Newry”, *The Times*, 7 February 1972

³²⁸ Norton-Taylor, Richard and Campbell, Duncan, “MI5 wins fight to take on IRA: Clarke plays down rivalry as police lose their lead role”, *The Guardian* (London), 9 May 1992

³²⁹ Gibb, Frances, “Britain accused over Rock deaths”, *The Times*, 21 February 1995

³³⁰ Osborne, 123.

³³¹ Osborne, 125

The last aspect to be discussed here is the perception that perhaps the security forces were not committed to achieving an end to the threat of terrorism due to the fact that in situations in which the IRA had declared ceasefires, they [the IRA] “required a cessation of aggressive military activity by Crown forces”.³³² Additionally, while during peace negotiations a United Nation’s panel concluded that “significant improvements ha[d] been made in police treatment of suspects detained in Northern Ireland’s paramilitary holding centres”, “the Committee for the Administration of Justice submission observe[d] that ‘even in the wake of the ceasefire ... [omission in original] complaints have included personal abuse, threats to (suspects) and their families, tactics such as deprivation of sleep and slaps and blows to the body’”.³³³

In sum, there are many examples of how the security forces used questionable methods and for the most part it appears as if their actions went unpunished. It is, however, also true that their actions were condemned, just not by the U.K., but rather also by various international organizations, governmental and non-governmental organizations, or NGOs, such as Amnesty International, the European Commission on Human Rights, and the United Nations.

Turning now to how the security forces were supported in their actions, it must be noted that there were a variety of ways in which they and their “extralegal” or questionable actions were supported. Examples of this support include: boosting the security forces’ morale or justifying their actions in the fight against terrorism through the use of fear, especially in referencing the fight against terrorism as being equivalent to

³³² Editorial, “Temporary Lull”, *The Times*, 21 December 1974

³³³ Bowcott, Owen, “RUC ‘metes out better treatment’ to suspects”, *The Guardian* (London) 4 November 1995

a battle in war, and the fact that security forces often were specifically targeted by terrorists.

As mentioned above, one of the most common ways in which support for security forces and their actions was expressed was through the use of fear, especially by equating the fight against terrorism as a battle in war. Before examining this in further detail, it is important to note that not all of the support for the security forces and their actions arose from the use of scare tactics, warning of the horrors that would await Britain if the security forces were not successful in their counterterrorism efforts. For example, quotes such as there was “wilfil [*sic*] ignorance in Northern Ireland by some people of what was being achieved on security”, and that “the successes of the RUC and the Army, aided by the significantly growing number of people who voluntarily give information to the police, provide hope for the future”,³³⁴ or “the Irish security forces have scored some significant successes against the Real IRA this year, arresting scores of their members in the Republic and foiling several high-profile attacks”³³⁵ exemplify the fact that the security forces were able to achieve success which correlated well to their support levels, without having to resort to fear tactics, albeit they were often used.

As the following demonstrates, fear tactics were, however, one of the primary methods used to rally support for the security forces and their actions. Quotes such as “unless the security forces can get on top of the situation, the wider authority of the Government in Northern Ireland will suffer serious damage”,³³⁶ and “British authority and troops in the north-east of the province of Ulster stand guard against the renewal of

³³⁴ “Army and police in Ulster tired of politically motivated criticism”, *The Times*, 28 March 1976

³³⁵ McDonald, Henry, “Sinn Fein breaks with past to condemn ‘disgusting’ act”, *The Guardian*, 16 August 1998

³³⁶ Editorial, “The Armagh Atrocities”, *The Times*, 7 January 1976

civil war in Ireland”,³³⁷ are just two examples supportive of the security forces’ efforts and reflective of the belief that the presence of security forces in Northern Ireland was imperative to achieving and maintaining peace. Additionally, quotes such as “imprisonment without trial has been urged by senior security advisors desperate to halt Northern Ireland’s spiralling sectarian violence”,³³⁸ and “the police had confirmed that the Act [The Prevention of Terrorism (Temporary Provisions) Act of 1976] was as important to them as it had ever been”,³³⁹ both demonstrate that support was also expressed through the justification of the security forces’ extralegal and legal actions. Lastly, excerpts such as “an intensification of the military effort is now the only way of achieving the necessary success against the urban guerrilla campaign”,³⁴⁰ and “if civil disruption continues on a significant scale it could mean that soldiers will have to take over running essential services in some areas”,³⁴¹ both illustrate how some aspects of fear were utilized to augment support for the security forces. Moreover, and especially in the cases in which security forces did have to “take over running essential services in some areas”, this technique was successful.

Unlike the Spanish case, support for the British security forces and their actions was also generated by equating the fight against terrorism to a battle in times of war. Incidentally, this would be the exact justification the U.K. would use in order to derogate from Article 15 of the European Convention on Human Rights in order to prolong the detention of suspected terrorists. For example, Mr. Faulkner, former Prime

³³⁷ Editorial, “The common enemy”, *The Times*, 19 December 1983

³³⁸ Mallie, Eamonn and Merritt, John, “Poll calls for return of internment to halt sectarian killings”, *The Observer*, 20 October 1991

³³⁹ “New Bill to fight terrorism”, *The Times*, 8 March 1983

³⁴⁰ Editorial, “Civil order comes first”, *The Times*, 9 October 1971

³⁴¹ Stanhope, Henry, “Army believes tactics in Ulster may switch from terrorism to civil protest and disobedience”, *The Times*, 8 February 1972

Minister of Northern Ireland stated, “we are, quite simply, at war with the terrorists, and in a state of war many sacrifices have to be made, and made in a cooperative and understanding spirit.”³⁴² It was, moreover, even contended that “the morality of killing terrorists cannot properly be distinguished from the morality of killing enemy soldiers in war”, which added further justification to the security forces’ use of the more extreme or questionable counterterrorism measures.³⁴³ It is worth mentioning that this comparison of the fight against terrorism to a battle in times of war has been rarely, if at all, used after the terrorist attacks of July 2005. This is due to the realization that the “war on terror” cannot be won “by military means alone, and because ... [the “war on terror”] isn’t against one organized enemy with a clear identity and a coherent set of objectives”, and, furthermore, because this type of language was “deemed ‘counterproductive’ by British diplomats, [and hence,] was abandoned in order to avoid any suggestion of a ‘clash or war of civilizations’”.³⁴⁴

As in the case of Spain, an additional method of how British security forces and their actions were supported is that of the fact that they were often the targets of terrorist violence. As put by *The Times*, “the ease and impunity with which the IRA has been able to pick off, especially in the border counties, off-duty policemen, reservists and members of the Ulster Defence Regiment have engendered understandable anger and [a] sense of insecurity”.³⁴⁵ Given that, and the fact that “the IRA has concentrated its fire on security personnel, particularly off-duty policemen and members of the part-time Ulster Defence Regiment, and particularly in the rural border areas of counties Fermanagh and Armagh

³⁴² “We are quite simply at war with the terrorists, Mr Faulkner says”, *The Times*, 10 August 1971

³⁴³ Editorial, “Would the death penalty help?”, *The Times*, 10 December 1975

³⁴⁴ Decaux, 55

³⁴⁵ Editorial, “Loyalists on the war path”, *The Times*, 17 November 1981

where it is hard to provide protection”,³⁴⁶ and that overall, "members of the security forces bulk large among the IRA's victims",³⁴⁷ it is not difficult to see how the attacks against the security forces accounted for at least some of the support for the more drastic security measures implemented to combat the terrorist threat.

The last aspect to be discussed regards how security forces were supported due to the fact that the attacks against the security forces were often attacks on civilians as well, considering the fact that often many, if not more, civilians were injured or killed in the terrorist attacks against security forces. In other words, “placing the bombs in the area of army barracks allow[ed] the IRA to pretend that it [was] attacking military targets, even when it [was] predictable that many civilians [would] will also be casualties”,³⁴⁸ which, as the following illustrates, often was the case: "as with so many previous atrocities in Northern Ireland it was civilians who bore the brunt of the explosion".³⁴⁹ It is worth highlighting the fact that this is the converse of the Spanish case. In other words, ETA rarely targeted civilians, and in the rare that it did target civilians, it was perhaps due to the fact that “the elimination of experienced activists [due to them being arrested or killed] may have driven ETA to become more reckless in the use of explosives, and to target civilians rather than the security forces”.³⁵⁰ Lastly, it should be mentioned that there is evidence that the specific targeting of security forces did lead to increasing troop numbers numerous different times as exemplified by the following excerpt: "the Government acted ... to counter the wave of Provisional IRA attacks on police stations in

³⁴⁶ Editorial, “Fear in Fermanagh”, *The Times*, 25 September 1980

³⁴⁷ Editorial, “A murderous loyalism”, *The Independent* (London), 5 January 1993

³⁴⁸ Editorial, “Murderers most foul”, *The Times*, 21 July 1982

³⁴⁹ McDonald, Henry, “Sinn Fein breaks with past to condemn ‘disgusting’ act”, *The Guardian*, 16 August 1998

³⁵⁰ Woodworth 2005, 71

Northern Ireland by announcing that an extra battalion of more than 550 men is being sent to the province ... to be stationed mainly in the border areas”.³⁵¹

To conclude, a review of the data on security forces in the U.K. demonstrates that the security forces did operate both within and outside of the rule of law to combat the threat of terrorism and that they were vulnerable to both media and public scrutiny, but also that they were able to rally support, at least initially, for themselves and their actions when needed, especially when the security forces had been victims of terrorist attacks themselves.

In analyzing and comparing the experience of the Spanish and British security forces it becomes apparent that both states' security forces operated both within and outside the rule of law. To put this in the context of the moral panic theory, it is possible to say that both countries' security forces did exhibit volatility, a heightened level of concern, an increased level of hostility, and substantial or widespread agreement or consensus that the threat is real, serious, and caused by the wrongdoing group and their behavior, and disproportionality in their counterterrorism efforts. While it is true that the five indicators of a moral panic are present in both cases, the fact that the British experience arguably worsened over time while the Spanish experience improved as it successfully transitioned into a consolidated democracy, must be recalled and highlighted and, therefore, the case for moral panics is stronger for the British case.

³⁵¹ Webster, Philip, “More troops for Ulster to combat IRA attacks”, *The Times*, 31 December 1985

Chapter 6: Legislation Data

The purpose of this section is to review the legislation available to both Britain and Spain in their respective counterterrorism initiatives. Both countries are members of the European Union and also signatories to many international agreements and treaties regarding terrorism, which are discussed in addition to their own respective domestic legislations.

Spain

This section discusses Spain's legislative framework in regard to its attempt to combat the threat of domestic, primarily from ETA, and international terrorism. Before discussing the actual legislation applicable to combating terrorism, it must first be noted that in January 1977, the Spanish National Court, the *Audencia Nacional*, "was created in Madrid to deal with serious organised crime and terrorist offences ... [which] implied a fundamental jurisdictional change, since terrorist crimes would be dealt with, from that moment on, by ordinary judges instead of military courts as was previously the case".³⁵² Furthermore, Article 117(5) of the Spanish Constitution explicitly states, "the law will regulate the exercise of military jurisdiction strictly within the scope of the military".³⁵³

³⁵² Alonso and Reinares, 267

³⁵³ The laws referred to in Article 117 (5) CE are Organic Law 9/1987, of 15 July, of Competences and Organization of Military Jurisdiction and Law 44/1998, of 15 December, of Plan and Territorial Organization of Military Jurisdiction.

The first piece of legislation addressing terrorism in the new democratic period was Organic Law (O.L.) 56/1978 “Special Measures toward Crimes of Terrorism Committed by Armed Groups”. This law “was approved as emergency legislation ... [and] was expanded by special Decree-Law 3/1979 [“On the Protection of Citizen Security”]”.³⁵⁴ After this legislation went into effect, “the different antiterrorist laws were basically referred to as ‘criminal acts committed by armed groups,’ without making almost any expressed reference to the term terrorism except in sporadic cases”.³⁵⁵ The first piece of non-emergency counterterrorism legislation was Organic Law 2/1981, of 4 May, for the Defense of the Constitution. Under this law,

The powers of the *Guardia Civil* to detain and arrest anyone suspected of involvement with terrorism, even if peripherally, [were expanded] ... [which] was made possible by the adoption of the very expansive and highly ambiguous definition of terrorism [which was defined] ... not only as ‘embracing any attack on the integrity of the Spanish nation’ but also as ‘any effort to secure independence of any part of its territory, even if non violent’.³⁵⁶

It is imperative to note that the passage of this piece of legislation came after the failed coup d’état of 23 February 1981, the first true test of the stability of the new Spanish democracy. Due in part to the attempted coup d’état, “in March 1981, a single centralized command for the fight against terrorism, known as *Mando Unico para la Lucha Contraterrorrista (sic)* [Single Command for the Counterterrorism Fight], was created for the first time since the democratic transition began”.^{357 358} Due to controversy

³⁵⁴ Clarke, 256-7

³⁵⁵ Ramirez and Malorée, 269

³⁵⁶ Encarnación, 956

³⁵⁷ Reinares and Jaime-Jiménez, 133

³⁵⁸ A similar command existed under the Franco regime, but was disbanded during the transition to democracy and re-established in 1981.

that surrounded the attempted coup, and the status of members of the Government in the ensuing hours after the coup, in which many had believed that the military had overtaken the Government, Organic Law 4/1981, “over states of alarm, exception and sites, defined the extraordinary powers that the state could assume in emergency situations”, was passed.³⁵⁹ Additionally, Organic Law 1/1984, of 5 January, on the Reform of Organic Law 6/1980, of 1 July, for Regulation of the Basic Criteria of National Defense and Military Organization was passed to, *inter alia*, further define the role of the military and its duties. The role of the military and its duties was further expanded with Organic Law 2/1986 on State Security Forces and Bodies. Organic Law 1/1992, of 21 February, on the Protection of Public Safety further,

Authorises the police agents to use specific preventative measures ... [and] permits the introduction of controls on the streets and in public places or establishments for the purpose of discovering and apprehending the participants in a crime and of securing the instruments, property or evidence connected therewith. ... [However,] the police agents are not authorised, either in urgent or other exceptional circumstances, to dispense with a court-ordered warrant to enter homes in order to combat crimes.³⁶⁰

Spain has elected to deal with the threat of terrorism by strengthening or toughening its existing criminal law and relating it to specific terrorist offences or offences associated with terrorism. Much of the counterterrorism legislation in Spain is established in the Spanish Penal Code approved in November 1995 under Title XII “Crimes Against Public Order”, Chapter V on Possession, Trafficking, and Deposit of Arms, Ammunition, or Explosives and Terrorist Crimes, Section 2, Articles 571-580 all of which explicitly deal with terrorist offences. The offences found in Articles 571-580 include: offenses for belonging to or working in the service of, or collaboration with

³⁵⁹ Ramirez and Malorée, 270

³⁶⁰ Soria, 542

armed bands, organizations or groups (Article 571),³⁶¹ possession of arms or explosive substances (Article 573), collaborating with armed bands or terrorist groups or organizations (Article 574), the financing of terrorism (Article 575),³⁶² the criminalization of glorifying or justifying terrorism (Article 578), provisions for lower criminal penalties for abandoning terrorist activities and collaborating with police to prevent a terrorist attack or capture other terrorists (Article 579), and the provision to use previous foreign convictions of terrorism to further criminalize recidivist attacks (Article 580).³⁶³ Articles 571-580, moreover, state the applicable criminal punishment (i.e. prison sentence) for the crimes described in the Articles. The punishments for these crimes can be summarized as the following:

When a criminal act causes the death of a person, the sanctions defined in the Penal Code for crimes of terrorism can reach a maximum of 30 years in prison. For terrorist activities consisting of arson and destruction, the sanctions range from 15 to 20 years in prison. When a person is seriously injured, the sanction is also 15 to 20 years. When an injury is minor, the actor who belongs to the armed group threatens, coerces or illegally detains another person, the sanction ranges from 10 to 15 years in prison.

³⁶¹ Article 515 (2) makes armed bands or terrorist groups or organizations punishable and Article 520 gives Judges or Tribunals the right to dissolve any illicit group. Furthermore, Organic Law 9/1984, of 26 December, Against the Actions of Armed Groups and Terrorist Elements and the Development of Article 55.2 of the Constitution provides, *inter alia*, for aggravated criminality of terrorist and rebel actions.

³⁶² Seizure of “money, effects or other assets used to commit the terrorist act, the proceeds of such acts, and the effects thereof ... may be undertaken as a precautionary measure for the duration of the [criminal] proceedings ... [and] is allowed and justified in Articles 13, 326, 334, and 589 of the Criminal Prosecution Act (Ley de Enjuicimiento Criminal” O.L. 4/1988, of 25 May (Soria, 537). Furthermore, the provision for “the freezing of funds and assets in third-party countries with respect to persons involved in terrorist acts is provided for in Article 2(3) and (4) of Law No. 40/1979 of 10 December on Exchange Controls which were added by Law No. 41/1999 of 12 November 1999 on Payment Systems” (Soria, 538).

³⁶³ Article 580 was introduced by Organic Law 3/1988 for Reform of the Penal Code 1988. Furthermore, “Spanish criminal law considers any terrorist act as universally prosecutable. Article 23 (4) of Organic Law 6/1985 of 1 July 1985 on the Judiciary states that Spanish courts have international jurisdiction over offences that are committed outside Spain by Spanish or foreign nationals, if the Spanish Penal Code characterises these offences as terrorist acts” (Soria, 534).

These prison sentences can be even longer when if terrorist actions are directed against government officials.³⁶⁴

Two additional reforms of the Penal Code merit mentioning. The first is Organic Law 7/2000 on Regulating Penal Responsibility of Minors: Special Consideration of Educational-Sanction Measures, “which, in general, provide[s] for special measures in cases involving persons younger than 18 years of age who commit terrorist offences. The law increases the length of detention for minors convicted of terrorist offences and creates a special Juvenile Court within the *Audencia Nacional*”.³⁶⁵ The second refers to the Penal Code modifications of 2001 that were implemented in response to a “new strategy instigated by ETA terrorist offences”, to “include criminal actions intended to intimidate part of a given population as well as entire social or political collectivities, and violent activities aimed at subverting the constitutional order and at seriously altering public peace”.³⁶⁶

As previous sections discuss the controversy surrounding negotiating or hosting dialogues with terrorists and the criminalization of *Herri Batasuna*, the legislation regarding these policies merit exploration. Looking firstly at the policy of negotiation, although:

[I]n the Pact of Madrid of 5 November 1987, it was decided not to make the policy of counter-terrorism an issue of the political debate in the national Parliament [and] on the regional level, parallel agreements were concluded with the so-called Pact of *Ajuria Enea* of 12 January 1988 and the Pact of Navarre of 7 October 1988, ... [which] clearly state that no political objective, however legitimate it may be, justifies the use of violence and categorically rule out the possibility of political negotiation with terrorists ... they still [however] leave a door open for a negotiated

³⁶⁴ Soria, 535

³⁶⁵ Soria, 536

³⁶⁶ Alonso and Reinares, 268

end to the violence, on the condition that ETA shows unequivocally that it is willing to cease its terrorist activities.³⁶⁷

Additionally, the Popular Party (PP) and the Spanish Socialist Workers Party (PSOE), the two primary political parties in Spain, came together to reach the Accord in Favor of Liberties and Against Terrorism, *Acuerdo por las libertades y contra el terrorismo*, of 8 December 2000, which called upon the other political parties “to express their will to collaborate in the goal of eradicating the scourge of terrorism”.

Turning now to the legislation regarding the criminalization of political parties, the most important is Organic Law 6/2002, of 27 June, on Political Parties. In which:

[A]ccording to Article 9, a political party will be declared illegal if it fails to respect democratic principles and constitutional values, i.e. if it systematically harms fundamental rights and freedoms by promoting, justifying or exonerating attacks against the right to life and the integrity of the individual, if it foment, facilitates or legitimises violence, or complements and supports the actions of “terrorist organisations”.³⁶⁸

After this law was passed Judge Baltasar Garzón:

[F]iled an accusation that *Batasuna* was part of ‘the terrorist complex led by ETA’, financed terrorism and was involved in the group’s terrorist activities. Moreover, on the basis, [of] Article[s] 520 and 129 of the Penal Code, he ordered the suspension for three years, extendable to five years, of the political and economical activities of *Batasuna*, on the grounds that it formed an important and intrinsic part of the structure of ETA. ... [and] further ordered that *Batasuna*’s finances and possessions are to be claimed by the Spanish state [and] included a prohibition of any gathering or demonstration held either by groups or by individuals on *Batasuna* on its suspension. [Furthermore,] on 2 September 2002, Judge Garzón issued a Court Order that appeared to widen the scope for the prohibition of ‘any gathering or demonstration’, which was contained in the Order of 26 August 2002. The judge stated explicitly that the order suspending *Batasuna*’s activities included those that were either directly or indirectly driven or inspired by *Batasuna* or its members or leaders. Any symbols, logos, posters, placards, announcements, etc., referring to *Batasuna*, were also prohibited.³⁶⁹

³⁶⁷ Soria, 529-30

³⁶⁸ Soria, 545

³⁶⁹ Soria, 547-48

After the passage of Organic Law 6/2002 and Judge Garzón's accusation and Court Order, the Basque Government attempted to take the Spanish Government to the European Court of Human Rights (ECtHR) for violating Articles 6, 7, and 11³⁷⁰ of the European Covenant of Human Rights (ECHR), but in "February 2004, the European Court of Human Rights unanimously agreed to reject the Basque Government's claim in relation to the banning of ETA's political wing".³⁷¹

Spain has additionally enacted a number of different legislative initiatives regarding compensation to victims of terrorist violence. The primary laws include: Law

³⁷⁰ Article 6 ECHR: 1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgement shall be pronounced publicly by the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice. 2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law. 3. Everyone charged with a criminal offence has the following minimum rights: (a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him; (b) to have adequate time and the facilities for the preparation of his defence; (c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require; (d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him; (e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

Article 7 ECHR: 1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed. 2. This article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by civilized nations.

Article 11 ECHR: 1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests. 2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

³⁷¹ Alonso and Reinares, 269

12/1996, of 19 December, on Help to the Victims of Terrorism, Law 13/1996, of 30 December, on Fiscal, Administrative Measures and of the Social Order, and Law 32/1999, of 8 October, on Solidarity with the Victims of Terrorism. Compensation regulated by these laws is paid by the Spanish state. Law 13/1996 refers to “both ... injuries and to material damage”, Law 32/1999 “establishes a scale of minimum compensation that could possibly be increased by judicial decision”, and Law 12/1996 “set[s] compensation for death in the case of terrorist attacks”.³⁷²

The last aspect of Spain’s counterterrorism legislation to be addressed here is the international or multinational dimension of the legislation. It is worth mentioning the fact that, “Spain, irrespective of the party in charge of the executive, has consistently supported multilateral agreements in the fight against transnational or international terrorism, both among liberal democratic regimes in the context of Western Europe, as well as in the framework of the United Nations”.³⁷³ Spain ratified many of the existing international agreements against or related to terrorism in the years after its democratic transition (e.g. International Covenant on Civil and Political Rights (ICCPR) ratified in 1979, the European Convention of the Suppression of Terrorism 1977 which Spain ratified in 1980, the European Convention on Extradition of 1957 ratified in Spain in 1982, etc.). After its transition, Spain not only implemented bilateral counterterrorism agreements (e.g. the *Castellana* Accords of 1984, an accord between France and Spain to combat ETA), but also multinational or international agreements such as the ratification of all of the U.N. conventions on terrorism (e.g. the U.N. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984 and the U.N.

³⁷² Buesa and Baumert, 69

³⁷³ Renaires 2003, 70

Convention for the Suppression of Terrorist Bombing and for the Suppression of the Financing of Terrorism of 1999), and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of 1987, and the Europol Convention of 1995 in which the “inclusion of terrorism ... was added ... at the insistence of the Spanish executive”.³⁷⁴

Spain, moreover, enacted or ratified a number of counterterrorism policies as a direct response to the terrorist attacks of 9/11 in New York and Washington D.C. These include: the Council Framework Decision on Combating Terrorism 2002 and the Council of Europe Convention on the Prevention of Terrorism 2005. Moreover, Spain justified its involvement in the United States’ “War on Terror” due to its obligations under Article 5, an attack on one, is an attack against all, of the North Atlantic Treaty Organization (NATO) treaty.³⁷⁵ It is important to stress the fact that these policies or legislative initiatives were adopted in the context of the European Union, the United Nations, or some other multinational organization, and were not initiatives that the Spanish Government undertook on a purely domestic level in reaction to the 9/11 attacks.

United Kingdom

Legislation used to combat terrorism is quite extensive in the U.K. As discussed below, the majority of this legislation is derived from measures deemed necessary to end

³⁷⁴ *Ibid.*

³⁷⁵ The complete text of Article 5 NATO treaty is: “The Parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all and consequently they agree that, if such an armed attack occurs, each of them, in exercise of the right of individual or collective self-defence recognised by Article 51 of the Charter of the United Nations, will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, such action as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area.”

the terrorist violence in Northern Ireland. In more recent years, however, the legislation has started to reflect a growing concern for international terrorism.

For purposes of this thesis, the main counterterrorism legislation dates back to the Prevention of Violence (Temporary Provisions) Acts of 1939-1973. These Acts were initially *temporarily* enacted, but were successively renewed until 1973 and, moreover, served as model for their replacement, the Prevention of Terrorism (Temporary Provisions) Act passed in 1974. The Prevention of Terrorism (Temporary Provisions) Act of 1974 was passed “largely in response to the Birmingham bombings”,³⁷⁶ in which the IRA bombed two pubs in Birmingham, killing 21 and injuring another 162, and the continued IRA “irredentist campaigns of violence against the British mainland”.³⁷⁷ These Acts, which were successively renewed until 1989, “applied to Northern Ireland terrorism as it affected the United Kingdom as a whole”, and furthermore, they “allowed, *inter alia*, [for the] proscription of organisations, powers of exclusion from one part of the UK to Northern Ireland and vice versa, and extended powers of post-arrest, pre-judicial detention”.³⁷⁸ Additionally, in 1973, the Northern Ireland (Emergency Provisions) Act was passed to replace the Civil Authorities (Special Powers) Act (Northern Ireland) of 1922 that “had conferred upon the authorities unusually wide powers for maintaining the peace”,³⁷⁹ establishing “special procedures for criminal procedure in Northern Ireland, both for the investigation and trial of so-called ‘Scheduled Offences’, i.e. terrorist offences”.³⁸⁰ This act was also “intended as a temporary piece of legislation which had to be extended by Parliament at the end of a two years period, [but] the Act remained in

³⁷⁶ Grote, 626

³⁷⁷ Bonner, 61-62

³⁷⁸ Warbrick 2004b, 372

³⁷⁹ Grote, 595

³⁸⁰ *Supra* note 378

force for twenty-seven years [until 1996]”.³⁸¹ Furthermore, it must be noted that the Northern Ireland (Emergency Provisions) Act of 1973 “*inter alia*, also provided for internment without trial”.³⁸² The Northern Ireland (Emergency Provisions) Acts 1973-1996 were replaced with the Northern Ireland (Emergency Provisions) Act 1996 which came with a “sunset” clause date of August 2000. The British Government, however, “arrived at the conclusion that the time [was] not yet right to remove all of those provisions in light of the evolving security situation” and, therefore, “Part VII of the Terrorism Act 2000 ... provides additional temporary measures for Northern Ireland”.³⁸³

Before returning to the Terrorism Act 2000, the Criminal Justice (Terrorism and Conspiracy) Act of 1998 needs to be addressed. This was the first piece of U.K. legislation that dealt specifically with international and not just Irish Republican terrorism. The Criminal Justice (Terrorism and Conspiracy) Act of 1998 was introduced in the aftermath of the Omagh bombing, one of the most deadly attacks in Northern Ireland, and it “not only further[ed] counterterrorism laws for Northern Ireland but ... extend[ed] the extraterritorial criminal liability of persons acting in the UK against the interests of foreign Governments”.³⁸⁴ A review of existing counterterrorism legislation was conducted by Lord Lloyd in the late 1990s in which it was “concluded that there was a continuing need for legislation, in some measure to be available against threats not hitherto falling within the counterterrorism legislation”, and consequently, the Terrorism Act 2000 was passed “with a vastly extended definition of terrorism,”³⁸⁵ it being decided

³⁸¹ *Supra* note 376

³⁸² *Supra* note 379

³⁸³ Grote, 596

³⁸⁴ Warbrick, 377

³⁸⁵ The definition of “terrorism” was extended to: 1. (1) In this Act “terrorism” means the use or threat of action where— (a) the action falls within subsection (2), (b) the use or threat is designed

that there remained the need for special powers with respect to Northern Ireland and for the extension of existing powers to cover domestic and international terrorism”.³⁸⁶ Some additional powers found in the Terrorism Act 2000 include:

The power for the Secretary of State to proscribe terrorist organisations³⁸⁷ ... [provisions] for criminal sanctions with regard to a number of other activities related to terrorism like fund-raising for terrorist purposes, the training in the use of firearms for terrorist purposes, ... [and, *inter alia*, it] gives the police special powers in order to facilitate the prevention of terrorist acts and the investigation of terrorist crime ... [such as] powers to stop and search vehicles, their occupants, and pedestrians for the prevention of terrorism as well as special arrest powers which are applicable in cases where there is not enough evidence to charge an individual with a particular offense even though there is reasonable suspicion of his involvement in terrorism^{388 389}.

Moreover, the Terrorism Act 2000 “allowed the withdrawal of the final Art. 15 derogation [of the European Convention on Human Rights]³⁹⁰ made by the Government

to influence the government or to intimidate the public or a section of the public, and (c) the use or threat is made for the purpose of advancing a political, religious or ideological cause. (2) Action falls within this subsection if it— (a) involves serious violence against a person, (b) involves serious damage to property, (c) endangers a person’s life, other than that of the person committing the action, (d) creates a serious risk to the health or safety of the public or a section of the public, or (e) is designed seriously to interfere with or seriously to disrupt an electronic system. (3) The use or threat of action falling within subsection (2) which involves the use of firearms or explosives is terrorism whether or not subsection (1)(b) is satisfied. (4) In this section— (a) “action” includes action outside the United Kingdom, (b) a reference to any person or to property is a reference to any person, or to property, wherever situated, (c) a reference to the public includes a reference to the public of a country other than the United Kingdom, and (d) “the government” means the government of the United Kingdom, of a Part of the United Kingdom or of a country other than the United Kingdom. (5) In this Act a reference to action taken for the purposes of terrorism includes a reference to action taken for the benefit of a proscribed organisation.

³⁸⁶ Warbrick, 390

³⁸⁷ The power to proscribe terrorist organizations was already present under the Prevention of Terrorism Act 1989 and the Northern Ireland Emergency Provisions Act 1996 but under the Terrorism Act 2000 the proscription became non-specific and applicable to the U.K. in its entirety. For more information see Grote, 600.

³⁸⁸ These powers are similar to the powers of arrest present in section 24 of the Police and Criminal Evidence Act (PACE).

³⁸⁹ Grote, 594

³⁹⁰ Article 15 ECHR: In time of war or other public emergency threatening the life of the nation any High Contracting Party may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation, provided that such

in response to Northern Ireland terrorism”.³⁹¹ Furthermore, the Terrorism Act 2000 set a new precedent because, *inter alia*, it also covers offenses “related to terrorism which have no equivalents in ordinary criminal law... [which includes] some core activities in relation to terrorism like the directing of a terrorist organization or the weapons training for terrorist purposes, including recruitment for such training”.³⁹² It is important to note that while the Terrorism Act 2000 did create new offences such as inciting terrorism abroad, most of the offences in the Act were “carried over from previous legislation”.³⁹³

A mere two months after the 9/11 attacks, a new counterterrorism bill, the Anti-terrorism, Crime and Security Act (ATCSA) 2001, was introduced in Parliament as “a legislative response to the events following 11 September and [UN]SC Resolution 1373”, and after receiving royal assent it entered into force on 14 December 2001.³⁹⁴ The ATCSA 2001:

Includes measures to cut off terrorists from their funds by ensuring better information sharing between intelligence and security agencies; preventing terrorists from abusing immigration and asylum laws; tightening security in relation to aviation, at nuclear sites, and at laboratories holding stocks of dangerous substances; and enabling prompt action to implement measures agreed on by all European Union member countries to tackle terrorism and directly related crimes.³⁹⁵

measures are not inconsistent with its other obligations under international law. No derogation from Article 2, except in respect of deaths resulting from lawful acts of war, or from Articles 3, 4 (paragraph 1) and 7 shall be made under this provision. Any High Contracting Party availing itself of this right of derogation shall keep the Secretary-General of the Council of Europe fully informed of the measures which it has taken and the reasons therefor. It shall also inform the Secretary-General of the Council of Europe when such measures have ceased to operate and the provisions of the Convention are again being fully executed.

³⁹¹ Warbrick, 364

³⁹² Grote, 611

³⁹³ *Ibid.*

³⁹⁴ Warbrick, 380

³⁹⁵ Taylor, 221

The ATCSA 2001 also includes provisions found in Part 11, Retention of Communications Data, that “relate the duty of communications data providers like telephone and internet companies to retain certain communications data and to disclose these data to secret intelligence and law enforcement agencies”.³⁹⁶ It must be noted that similar provisions were present in the Regulation of Investigatory Powers (RIPA) Bill 2000, but that they were enhanced and extended in the ATCSA 2001.

The most well known measure included in the ATCSA 2001 is perhaps the provision for indefinite detention without trial. This provision is found in Part 4, Immigration and Asylum, of the ATCSA 2001 which “empowered the indefinite detention under immigration law powers which would otherwise be time-limited, of foreign nationals reasonably suspected of involvement in or supporting international terrorism whom the Home Secretary reasonably believed to be a threat to national security”.³⁹⁷ This provision “required an art. 15 derogation from art. 5 ECHR”³⁹⁸ because

³⁹⁶ Grote, 617

³⁹⁷ Bonner, 55

³⁹⁸ Article 5 ECHR: “Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law: (a) the lawful detention of a person after conviction by a competent court; (b) the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law; (c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority of reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so; (d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority; (e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts, or vagrants; (f) the lawful arrest or detention of a person to prevent his effecting an unauthorized entry into the country or of a person against whom action is being taken with a view to deportation or extradition. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and the charge against him. Everyone arrested or detained in accordance with the provisions of paragraph 1(c) of this article shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial. Everyone who is deprived of his liberty by

detention pending deportation cannot be valid once it becomes clear that deportation is precluded for art. 3 ECHR³⁹⁹ reasons”.⁴⁰⁰ It is important to note that since these powers of detention “result from an extension of existing detention powers under the Immigration Act 1971, they do not apply to persons which are not subject to immigration control under the Act, i.e. British citizens”.⁴⁰¹ Furthermore, Britain also derogated from Article 9 of the International Covenant on Civil and Political Rights (ICCPR)⁴⁰² for two reasons. Firstly, “to forestall a possible breach of the UK’s obligations under the Covenant”, and secondly, “to protect the derogation under the ECHR from challenge ... [since] Article 15 ECHR derogation measures are only admissible, among other things, if they are not inconsistent with the other obligations of the Member State under international law”.⁴⁰³ Additionally, there was some precedent for extended detention from

arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful. Everyone who has been the victim of arrest or detention in contravention of the provisions of this article shall have an enforceable right to compensation.”

³⁹⁹ Article 3 ECHR: “No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

⁴⁰⁰ *Supra* note 397

⁴⁰¹ Grote, 619

⁴⁰² Article 9 of the ICCPR states: 1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law. 2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him. 3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement. 4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful. 5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

⁴⁰³ *Supra* note 401

the so-called ‘*Soering*’ Principle,⁴⁰⁴ a decision reached by the European Court of Human Rights in 1989 that held that a non-national could not be extradited if they would face torture or death. The legality of detention without trial was challenged in the *A (and others) v Secretary of State for the Home Department* case, also referred to as the “Belmarsh case”. “In its decision, the House of Lords, in exercise of its powers conferred by the Human Rights Act 1998,⁴⁰⁵ quashed the Human Rights (Designated Derogation) Order 2001, and made a declaration that s 23 of the Anti-terrorism Crime and Security Act 2001 was incompatible with Arts 5 and 14⁴⁰⁶ of the [European] Convention [of Human Rights]”.⁴⁰⁷ This is an important ruling given the fact that this was the first time the Court was given the “power to declare Acts of Parliament incompatible with the European Convention [of Human Rights]”.⁴⁰⁸ It merits mention that those certified as terrorists and held in detention have recourse to the Special Immigration Appeals Commission (SAIC) “in lieu of the right to apply for *habeas corpus*”.⁴⁰⁹ The SAIC “was established in response to the judgment against the United Kingdom in *Chahal* by the Special Immigration Appeals Commission Act 1997 (SIACA) in order to provide a judicial process where the Government raised national security considerations about the presentation of evidence in immigration cases”.⁴¹⁰ Furthermore:

⁴⁰⁴ The ‘*Soering*’ Principle was upheld further in the *Chahal v. UK* 1996 case in which the majority of the ECHR ruled that regardless of citizenship a person could not be extradited if there was reasonable belief they would face torture or death, a violation of Article 3 ECHR.

⁴⁰⁵ The Human Rights Act 1998 which entered into force on 2 October 2000, “provides that in coming to decisions, courts must take account of ECHR jurisprudence” (Bonner, 54).

⁴⁰⁶ Article 14 ECHR: “The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

⁴⁰⁷ Arden, 822

⁴⁰⁸ Smith, 80

⁴⁰⁹ *Supra* note 407

⁴¹⁰ Warbrick, 398-399

[F]or as long as a suspected international terrorist remains in detention there will be an automatic review of the certificate by the SAIC. The first review will happen six months after the appeal (if there is one) or after the date on which the certificate was issued (if there is no appeal). Subsequent reviews will happen every three months beginning with the date on which the previous review is finally determined. As with the appeal, the SAIC is able to cancel the certificate on review if it is of the opinion that there are no longer any reasonable grounds to believe that the detained person is a risk to national security or a terrorist.⁴¹¹

The last piece of legislation to discuss here is the Prevention of Terrorism Act (PTA) 2005. The PTA 2005 provides for two controversial and different types of control orders, “non-derogating” and “derogating” from the rights of the ECHR. The reasoning and:

[F]unction of a control order is to impose obligations on individuals suspected of being involved in terrorism related activities. The obligations are designed to restrict or prevent further involvement by individuals in such activities. The intention is that each order is tailored to the particular risk posed by the individual concerned. Obligations that may be imposed include prohibitions on the possession or use of certain items, restrictions on movement to or within certain areas, restrictions on communications or associations and requirements of place of abode.⁴¹²

As with the case of the terrorist certifications, these control orders can also be appealed.⁴¹³

While several pieces of international legislation or decisions have been discussed above it is important to highlight several more that have not yet been discussed. As should be evident, the international dimension of U.K. counterterrorism legislation comes in many forms, including: European-wide counterterrorism initiatives, judicial decisions and legislation, security alliances, and also United Nations resolutions condemning terrorism. It is important to note that the U.K. is “one of only a few states in the European

⁴¹¹ Grote, 621

⁴¹² Arden, 831

⁴¹³ There were two cases of control order appeals in 2006: *Secretary of State for the Home Department v MB* and *Secretary of State for the Home Department v JJ*.

Union and the world ... [that] has ratified all of the international conventions dealing with the prevention and repression of terrorism [and furthermore,] it did not enter into any reservation concerning the substance of the obligations established by these treaties”.⁴¹⁴ Some of the additional measures that are important for purposes of this thesis include: the European Convention on Extradition of 1957, the European Convention of the Suppression of Terrorism of 1977, the U.N. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of 1987, the U.N. Convention for the Suppression of Terrorist Bombing and for the Suppression of the Financing of Terrorism of 1999, the Council Framework Decision on Combating Terrorism of 2002, and the Council of Europe Convention on the Prevention of Terrorism of 2005.

To conclude, as should be evident, both Spain and the U.K. have a wide range of counterterrorism legislation. Not only are both countries signatories to a number of the same conventions regarding terrorism, especially those within the European Union, but both have also enacted emergency legislation, both have enacted legislation in the aftermath of terrorist attacks, and both have vast definitions of terrorism, written as such to be as all-encompassing as possible. Due to these facts, it is possible to claim that both the British and Spanish counterterrorism policies appear to be reflective of the five indicators of a moral panic. There are, however, noticeable differences between the two countries’ counterterrorism legislation. The first is that while both countries enacted emergency legislation, Spain used the emergency legislation only during times of emergency and not for an extended amount of time, which is the converse of the British

⁴¹⁴ Grote, 597

case. A second noticeable difference concerns the extent of disproportionate measures. While both Spain and the U.K. have used disproportionate measures, the use of these in Spain is limited to the first years of the time frame of this case study (i.e. during the years of Spain's transition to democracy and the early years of its consolidation), and the disproportionate measures implemented in the U.K. span most of the research period. A third difference is that U.K. counterterrorism legislation provides for very expansive counterterrorism measures, including provisions for indefinite detention, which has required Britain to derogate from a number of Articles in several different international covenants on human rights which Spain has not found necessary. The last noticeable difference to be discussed regards how the two countries' counterterrorism policies, although similar, are carried out differently. For example, both Spain and the U.K. have legislation regarding retaining communications data but whereas Spanish police forces need to seek judicial approval before they can access the data,⁴¹⁵ British authorities do not, and a similar situation is found between the two countries' policies of entering a home. It is, therefore, possible to state that the British counterterrorism legislation is more indicative of a moral panic than is the Spanish counterterrorism legislation.

⁴¹⁵Law No. 34/2002 on Services of the Information Society and Electronic Commerce, of 27 June 2002, "forces Internet service providers to retain and to conserve the data of connections and traffic for at least one year, although the police will not have access to the data without judicial permission" (Soria, 544).

Conclusion

The previous sections have reviewed the different “agents of social control” that can contribute to the creation of a moral panic. This section reviews the conclusions of the previous sections and offers an analysis as to what these conclusions signify for democratic states’ counterterrorism policies and the role of the public in the creation of these policies.

To look first at the Spanish case, the data make it evident that the public was quite concerned with the threat of terrorism throughout the time frame of the case study given that it was typically one of the top concerns for Spanish society, but there was some noticeable, albeit limited, volatility regarding the extent of this concern. While this is true, it is reasonable to state that there was substantial or widespread agreement or consensus that the threat is real, serious, and caused by the wrongdoing of certain group members and their behavior. It is also true that the Spanish public did exhibit some evidence of disproportionality and hostility regarding measures such as the possible re-introduction of the death penalty. The data from Spanish action groups reinforce the public opinion data given the fact that not only did these organizations influence public opinion through, *inter alia*, the organization of demonstrations or collection of petition signatures, but also because, on occasion, the action groups themselves used or supported questionably legal, and hostile, perhaps, disproportionate measures such as attempting to criminalize all political parties to the extreme right along with their attempt to criminalize

Herri Batasuna. Regardless of the fact that there are a variety of different action groups, representing many different views, it is possible to state that there existed some volatility, and furthermore, that among the different action groups examined in this thesis, that there was a heightened level of concern and widespread agreement or consensus that the threat posed by terrorism was real, serious, and caused by the wrongdoing members of society.

A review of the Spanish editorial data demonstrates opinion overwhelmingly in favor of doing what was necessary to combat the threat of terrorism insofar as the chosen methods were compatible with the framework of a liberal democratic system. This included supporting controversial counterterrorism measures such as the reinsertion program of repentant *etarras* and condemning the potential reinstatement of the death penalty. In other words, while the Spanish editorial data do reflect a heightened level of concern for terrorism and substantial or widespread agreement or consensus that the threat is real, serious, and caused by the wrongdoing group members and their behavior, it does not reflect an increased level of hostility, disproportionality, or volatility, and, therefore, the editorial data only reflect two of the five indicators of a moral panic.

The data on Spanish heads of government and opposition offer some evidence of a moral panic. While it is true that there were occasions in which Spanish politicians attempted to use the threat of terrorism as a method to incite fear or panic, especially with regard to the effect terrorism could have on Spanish democracy, it is also true that Spanish politicians were very mindful of how their words would be conceived or interpreted by the Spanish public, and they, therefore, attempted to avoid creating such a panic. Moreover, while some politicians indeed were quick to offer dramatic responses to

the threat of terrorism, by and large, Spanish politicians emphasized the importance of staying within the democratic system to combat terrorism. Furthermore, Spanish politicians largely tried to convince the public as to how measures publically deemed inappropriate (e.g. the reinsertion of repentant terrorists), or appropriate in other cases (e.g. the re-introduction of the death penalty), would actually be counterproductive in their quest to eradicate the threat of terrorism. It is also worthwhile to recall that when Spanish politicians pursued arguably disproportionate measures (e.g. the closure of the *Egin* newspaper), they would attempt to reassure the public that these measures were indeed necessary and legal. In other words, contrary to statements claiming that the politicians did not heed to public opinion, the data demonstrate that the converse was actually the case. In short, it can be said that while Spanish heads of government and opposition at times did exhibit the indicators of a moral panic, specifically increased levels of hostility and the use of disproportionate measures, they were quite cognizant of the impact their statements would have in the general public and, hence, largely refrained from using this type of language and instead referred to the strength of the Spanish democracy to combat terrorism with methods true to a democracy. It is also important to recall that the politicians who advocated for harsher punishments for terrorists, the more extreme or disproportionate measures, or exhibited more hostility and volatility often had been personally affected by terrorist violence.

The data on Spanish counterterrorism legislation demonstrated that it is indicative of several moral panic indicators, specifically a heightened level of concern, substantial or widespread agreement or consensus that the threat is real, serious, and caused by the wrongdoing group members and their behavior, and, to some extent, hostility. It is

necessary to recall that although Spain has signed and ratified most of the international agreements condemning terrorism, Spain did not enact any new domestic legislation in the aftermath of the 9/11 terrorist attacks in New York and Washington D.C. or the 11/M terrorist attacks, with the exception of Organic Law 6/2002 which outlawed political parties that do not “respect democratic principles and constitutional values”. Moreover, it was argued that new legislation was not necessary to combat the new threat of Islamic terrorism given the fact that the Islamic terrorists were not attempting to work within the democratic system, and furthermore, that the existing legislation was already sufficient to combat this new terrorist threat. This is due to the fact that Spain has taken a criminal justice approach to counterterrorism, and, therefore, convicts terrorists for their crimes by finding their equivalent in existing legislation, albeit, the terrorism related crimes are subject to harsher punishments (e.g. longer prison sentences). Lastly, while Spain did enact emergency legislation, which could be viewed as a disproportionate measure, it was only used during times of emergency, and not for an extended amount of time. In sum, the Spanish legislative data do reflect a heightened level of concern, substantial or widespread agreement or consensus that the threat is real, serious, and caused by the wrongdoing group members and their behavior, hostility, and, to a limited extent, disproportionality.

The last agent of social control to review for the Spanish case is the security forces. While it is in fact the case that Spanish security forces have, on numerous occasions, operated outside of the rule of law or used questionable, albeit legal, measures to combat the terrorist threat, given that these measures were used, or actions taken, during the early years of Spain’s transition to democracy, there is some evidence that

they have learned from their past lessons and have made an effort to correct their mistakes and work within the framework of a democratic society. For example, the Spanish Government itself was ordered to pay indemnifications to the victims of a terrorist attack given the fact that “it was said in this case the negligence of the State Security Forces’ actions was the responsibility of the Administration”.⁴¹⁶ Additionally, regarding how certain actions were kept secret (e.g. the GAL operations) an accord was signed “that would guarantee that possible criminal acts or excesses of injuring people would not go unpunished not even at the margin of the acts of the judges”.⁴¹⁷ In the context of the moral panics indicators, the security forces did exhibit a heightened level of concern, an increased level of hostility, and substantial or widespread agreement or consensus that the threat is real, serious, and caused by the wrongdoing group and their behavior, disproportionality, and volatility or, in other words, all five of the indicators of a moral panic. It is also true, however, that the experience of the Spanish security forces changed for the better (i.e. became less reflective of the moral panic indicators) as the country successfully transitioned into a democracy.

Turning now to the British public opinion data, while it appears that the British citizenry exhibited a lesser amount of concern for terrorism than their Spanish counterparts, which may be due to the fact that most of the acts of terrorism during the time frame of this research occurred in Ireland, and not on the mainland; terrorism is still, however, a notable concern for the British public, at times even becoming volatile, revealing the presence of an increased level of hostility toward terrorists and regarding policies such as extended detention or imprisonment and the death penalty. While the

⁴¹⁶ “El Estado, condenado a indemnizar a 12 víctimas de Hipercor con 112 millones”, *El País*, 7 July 1995

⁴¹⁷ Editorial, “Secreto y antiterrorismo”, *El País*, 23 March 1996

IRA enjoyed a higher level of public support than ETA, a significantly larger percentage of the British populace disapproved of the IRA and its actions, and therefore, the criterion of substantial or widespread agreement or consensus that the threat is real, serious, and caused by the wrongdoing group members and their behavior is also met. Lastly, there is some evidence of disproportionality present in the British public opinion data on terrorism, which is especially true regarding certain aspects of Britain's counterterrorism legislation and the public support for these counterterrorism initiatives such as extended detention. In summary, the U.K. public opinion data demonstrate evidence of all five of the moral panic indicators.

To review the data on British action groups, it is important to recall that the action groups have been successful in achieving an improvement in the lives of victims of terrorism through economic and other forms of aid, in assisting and maintaining the integrity of the democratic system by protesting against legislative or security measures that could curtail civil liberties, and by ensuring that those who used these questionable or illegal methods of counterterrorism, or those who were responsible for others using them, faced the consequences of their actions or inactions. Furthermore, it can be stated with certainty that the British action groups were able to influence not only public opinion, by, for example, organizing or calling for the cancellation of demonstrations or marches, but also policy making, especially with regard to collecting indemnifications for the victims of terrorism. To put the data on British action groups into the context of the criteria of moral panics, it must be stated that while British actions groups did not exhibit much volatility, it is evident that a number of action groups did express a heightened level of concern, an increased level of hostility, and, although there was some contention

among the different action groups, substantial or widespread agreement or consensus that the threat is real, serious, and caused by the wrongdoing group members and their behavior, and disproportionality. In other words, the data on British action groups demonstrate evidence of four of the five indicators of a moral panic.

The data on British heads of government and opposition make it apparent that British politicians have used some fairly extreme language to refer to their counterterrorism initiatives and the threat that terrorism poses to the democratic state. This language, however, was often balanced out with statements referring to the strength and integrity of British democracy. One important contrast found in the British case is the prevalence of exceptional measures in the aftermath of the July 2005 terrorist attacks in London. While exceptional measures were used before the July 2005 terrorist attacks, after these attacks, it became more apparent that the British government would do anything it deemed necessary to eradicate the terrorist threat, and to prevent more terrorist attacks from occurring, regardless of the effect this would have on civil liberties or human rights. The example of the “hierarchy of liberties” discussed in the examination of British statements of heads of government and opposition offers a compelling illustration of the exceptional measures. In the context of moral panics indicators, the data reveal that British heads of governments and opposition expressed a heightened level of concern, an increased level of hostility, substantial or widespread agreement or consensus that the threat is real, serious, and caused by the wrongdoing group members and their behavior, disproportionality, and volatility, which is especially true in the aftermath of the July 2005 terrorist attacks.

A review of the editorial data confirms Britain's tough, seemingly legitimate, but questionable, counterterrorism measures. Although the editorials suggest that a hard-line approach to terrorism is necessary, they do, however, largely support these measures because they have been determined to be lawful. Moreover, the editorials also express the need for caution or prudence in the application of counterterrorism measures so that they do not cause more detriment than benefit. In other words, the editorial data demonstrate that the editorials are fairly balanced when discussing counterterrorism measures and the threat terrorism poses, at least when the measures fall under, or are covered by, existing laws or when new legislation can be drafted and implemented to make them lawful. A review of how the data on editorials fit into the moral panics model needs to be examined. While it is true that some of the U.K. editorial data reflect the need for prudence in the counterterrorism battle, the data also express a high level of support for controversial measures, including those that could potentially violate civil liberties, if they are included in British legislation regarding counterterrorism. This reflects an increased level of hostility, a heightened level of concern, substantial or widespread agreement or consensus that the threat is real, serious, and caused by the wrongdoing group members and their behavior, disproportionality, and volatility, or, in other words, all of the indicators of a moral panic.

A review of the data on security forces in the U.K. demonstrates that the security forces did operate both within and outside of the rule of law to combat the threat of terrorism and, moreover, that they were vulnerable to media and public scrutiny, and that they were also able to rally support, at least initially, for themselves and their actions when they needed to, especially when the security forces had been victims of terrorist

attacks themselves. To put this in the context of the moral panic theory, it is reasonable to say that the U.K. security forces did exhibit a heightened level of concern, an increased level of hostility, substantial or widespread agreement or consensus that the threat is real, serious, and caused by the wrongdoing group and their behavior, disproportionality, and volatility in their counterterrorism efforts.

The last aspect of the U.K. case is that of its counterterrorism legislation. The U.K. has a wide range of counterterrorism legislation given that it is a signatory to all the international conventions regarding the prevention and repression of terrorism, has enacted emergency legislation, both in response to the Northern Ireland “Troubles” and as a result of a terrorist incident, and, furthermore, uses a broad definition of terrorism, written to be as all-encompassing of terrorist activity as possible. The U.K. counterterrorism legislation provides for very expansive counterterrorism measures, including provisions for indefinite detention, which has required Britain to derogate from a number of Articles in several different international covenants on human rights. Due to these facts, it is reasonable to state that the British counterterrorism policies exhibit a heightened level of concern, an increased level of hostility, substantial or widespread agreement or consensus that the threat is real, serious, and caused by the wrongdoing group and their behavior, disproportionality, and volatility, or, in other words, all five indicators of a moral panic.

Given the evidence demonstrated by the data assembled and reviewed in this thesis, it is possible to state that moral panics were indeed apparent in both the cases of Spain and the United Kingdom. However, while the Spanish case reveals a number of contributors to a moral panic, as Spain successfully transitioned into a democracy it

adopted and had less public support for extreme, disproportionate, and questionably legal and democratic counterterrorism responses. Furthermore, the U.K. case is more reflective of a moral panic and the dangers that can accompany one, and this is especially true in the aftermath of the July 2005 terrorist attacks.

This thesis puts forth the argument that the role of the public in influencing democratic states' counterterrorism policies can be explained, at least partially, with the theory of moral panics. According to Rothe and Muzzatti:

[S]ome would argue ultimately the most important actor in a moral panic is the public. The success of the media, politicians, rule enforcers and moral entrepreneurs in generating and sustaining a moral panic is ultimately contingent upon how successfully they enrage the public and marshal their support against the folk devils. The *vox populi* is enlisted as a front-line agent in the crusade against the designated evil. Members of the public are relied upon to express contempt for the folk devils and support for the rule enforcers, to consume the media coverage, and wait for the latest pronouncements from politicians and/or action groups on how the problem is to be solved.⁴¹⁸

On the other hand, however, the public is not a unitary actor and, therefore, "public opinion cannot be divorced from the political discourse and media frames that surround it. The apparent impact of the public on government policy often arises from a circular process in which government officials respond to the polling options, anticipated or perceived majorities, and priorities that many of them helped create".⁴¹⁹ The fact that the public is not a unitary actor, and instead is part of a circular process, is evidenced by the data presented in this comparative case study.

While Cohen's theory of Moral Panics offered a useful framework to organize and examine the role of the public in democratic states' counterterrorism policies, unfortunately, it does not fully explain the divergence found between British and Spanish

⁴¹⁸ Rothe and Muzzatti, 330

⁴¹⁹ Entman, 142

counterterrorism policies. However, the theory of Moral Panics was beneficial in a number of ways due to the fact that it led to some very insightful and surprising conclusions. The conclusions gathered from the data presented in this comparative case study offer a number of precautions and suggestions for democratic states to take into consideration when developing and implementing their counterterrorism policies. These include: the dangers of institutionalizing a moral panic, the dangers of overstepping the boundaries of a democratic system, the dangers of playing politics with terrorism, and the benefits of adopting a law enforcement or criminal justice approach to counterterrorism.

Although this thesis demonstrates that moral panics were present in the cases, there is some room for optimism due to the fact that, “a panic, by definition, is self-limiting, temporary and spasmodic, a splutter of rage which burns itself out”.⁴²⁰ However, one of the greatest threats of a moral panic is the potential legacy that can accompany it. In other words, while a moral panic cannot by definition last indefinitely, the extreme, or disproportionate, measures implemented to counter the threat of terrorism can leave a lasting impression. According to Goode and Ben-Yehuda:

[I]n principle, moral panics can have two potential outcomes: they can end leaving little or no long-term institutional legacy, disappearing, as with fads, without a trace – they may generate or stimulate no new laws, no lasting social movements, no government agencies. On the other hand, the intensity of the concern that was expressed at the height of moral panics can, in principle, become captured, routinized, or *institutionalized* into ongoing, long-lasting organizational structures. In other words, one possibility is that moral panics can, in principle, generate social change; they can either leave a substantial institutional legacy, or none. And ... these institutional structures can be a diverse lot: laws but no social movements; social movements but no government agencies; and so on.⁴²¹

⁴²⁰ Cohen 2002, xxx

⁴²¹ Goode and Ben-Yehuda, 225

Therefore, the possibility that a moral panic episode could lead to institutional or organizational changes like, for example, in the case of the U.K., is particularly worrisome. Additionally, even if a case of moral panics does not leave an “organizational or institutional legacy, the collective excitement that citizens experience when it lasts prepares them for future panic-like experiences. They may reshape the normative, attitudinal, and value landscape of a society”.⁴²² Therefore, any evidence of a moral panic should not be taken lightly, and should be taken into consideration when creating or implementing future counterterrorism measures.

Another lesson apparent from the British and Spanish cases is how dangerous it is to operate outside the democratic framework to counter the terrorist threat given the fact that extreme, disproportionate, and unlawful acts actually aid the terrorists whose aim is to destroy the democratic state or to, at a minimum, make it appear weak. This is especially true during times of crisis or emergency, when it is of the utmost importance for the state to remain *democratically* strong. As Gross writes:

Fundamental democratic principles – the rule of law, the separation of powers, the independence of the judicial authority, and recognition of principles of social morality and justice at the core of which lie human rights – are not luxuries of peacetime which make the democracy in which we live a better one; rather without them the democracy does not exist. A democracy that permits itself to deviate from respect for these values – even for a limited period of time – is not a bad democracy, but from a substantive point of view it is not a democracy at all. Accordingly, the manner in which democratic states deal with emergency situations in general, and security emergencies in particular, must fall within the boundaries of the existing constitutional framework.⁴²³

While it is true that democratic states have a responsibility to protect their citizens and the right to use *some* extreme measures, the cases of Britain and Spain demonstrate

⁴²² Goode and Ben-Yehuda, 228

⁴²³ Gross, 255

that it would be tremendously erroneous to use extreme measures because they have proven futile in countering terrorism, and even worse, because they have proven to aid terrorists and their causes. For example, the experiences of the GAL in Spain and internment in the U.K. only led to greater sympathy for the Basque and Irish causes. With that being said, democratic states would find it immeasurably beneficial to learn from history, taking heed of these examples, to prevent a similar, or perhaps an even worse, reaction from other terrorist organizations or sympathizers. Even more importantly, when the democratic state steps out of the bounds of democracy to counter the threat of terrorism, it is only contributing to its own demise and, therefore, if it wishes to preserve democracy, then there is no choice but to act prudently in counterterrorism initiatives.

This is especially true given the fact that:

Even the most cursory knowledge of terrorism reveals that terrorists have never truly threatened a state, or democracy, or freedom, or the way of life of an entire people; nor have they ever threatened the peace of the world or the existence of any civilisation. ... On the other hand, there are numerous examples where the reaction of the authorities to terrorist attacks has endangered democracy and freedom by seriously undermining civil and political rights, and where the state's eagerness to suppress dissidents has led to gross miscarriages of justice and human rights abuses by the security forces. Such acts have undermined public respect for political institutions, damaged the functioning of democracy, and demoralised society. In reality, it is not terrorism that threatens the essence of our societies – terrorists are tiny groups of isolated individuals able to do little more than commit symbolic acts of violence – but rather state-led counter-terrorism and the dangers of over-reaction by the authorities.⁴²⁴

A further, and related, lesson is that democracies have to learn that they cannot play politics with terrorism. In other words, it is ultimately not beneficial, although it may seem to be in the short term, to prey on the public, attempting to invoke public support for extreme or disproportionate counterterrorism measures by exaggerating, or

⁴²⁴ Jackson, 198

overreacting to, the terrorist threat. As Kassimeris writes, “governments and career politicians have always been tempted to exploit disasters and use them to realise their political objectives. ... “When it comes to terrorism, a phenomenon that almost always stirs fear and insecurity disproportionate to the actual danger, the temptation for governments to bend the rules and the truth becomes irresistible”.⁴²⁵ While some argue that the leaders of democratic states have a vested interest in exaggerating the threat of terrorism due to the fact that:

[P]oliticians and terrorism bureaucrats also have, as Jeffery Rosen points out, an ‘incentive to pass along vague and unconfirmed threats of future violence, in order to protect themselves from criticism’ in the event of another attack. ‘Far better’, notes Peter Beinart, ‘to warn of an attack that never comes than to remain silent and appear to be taken by surprise’.⁴²⁶

However true it may be that it is better for individual or groups of politicians to work in concert to exaggerate the terrorist threat for their own benefit, the disadvantages to doing this are immensely worse for the democratic state. Similar to using extreme measures, which may in themselves be a byproduct of overreaction, “overreaction undermines the moral fabric of a society that is victimized by terrorists and plays into the hands of the terrorists and the assumptions central to their calculus of violence”.⁴²⁷

An additional lesson that can be learned from this comparative case study is that a law enforcement approach to counterterrorism is not only more democratically legitimate, but also more effective. In one study on how terrorist groups ended, among which the different ways in which they ended consisted of a transition to nonviolence, effective policing, and, *inter alia*, military force, Jones and Libicki find, “where terrorist groups cannot or will not make a transition to nonviolence, policing is usually most

⁴²⁵ Kassimeris, 4

⁴²⁶ Mueller, 306

⁴²⁷ Nacos 2008, 300

effective in defeating terrorist groups”.⁴²⁸ This is especially true given the fact that military operations are one of the least effective methods of counterterrorism. According to Jones and Libicki, “military force has rarely been the primary reason for the end of terrorist groups (7 percent)”.⁴²⁹ The only exception is “when they [terrorist groups] became strong enough to conduct insurgencies ... [then they] ended because of military force 25 percent of the time”.⁴³⁰ Furthermore, Jones and Libicki address religious terrorist organizations, which they rightfully recognize as “different from those otherwise classified”, and highlight, “the most salient fact about religious terrorist groups is how hard they are to eliminate ... only 32 percent of religious terrorist groups have ended. ... of those that ended under pressure from authorities, most (13) fell to policing, while only three succumbed to military force”.⁴³¹ This is significant not only for the Spanish and U.K. cases discussed in this thesis, but also for the United States and its “Global War on Terror”, as all three are experiencing an increase in religiously motivated terrorist attacks.

One of the primary reasons the law enforcement or criminal justice approach to counterterrorism is more effective than a military approach is because the police can get intelligence better than “outsiders”. In other words, “police have a permanent presence in cities, towns, and villages; a better understanding of local communities than other security forces and better intelligence. This enables them to be best suited to understand and penetrate terrorist networks”.⁴³² An additional reason why a law enforcement approach is more effective in countering terrorism is that it is possible to criminalize “activities that are necessary for terrorist groups to function, such as raising money or

⁴²⁸ Jones and Libicki, 9

⁴²⁹ Jones and Libicki, 19

⁴³⁰ Jones and Libicki, 35

⁴³¹ Jones and Libicki, 35-37

⁴³² Jones and Libicki, 42-43

openly recruiting”.⁴³³ Moreover, “in many cases, it may be easier and more effective to arrest and punish terrorists for other offenses, such as drug trafficking, that have little direct connection to their terrorist activity”.⁴³⁴ Furthermore, in the cases in which the criminal activities can be linked to terrorism, an approach similar to the Spanish case, in which criminal activities are given longer prison sentences when related to terrorism, can be adopted. Adopting a law enforcement approach to counterterrorism would not be difficult, and would have the added benefit of taking power away from terrorists. To elaborate, “in most cases ... acts of international terrorism are primarily crimes under common law; they are sporadic and marginal acts that achieve a disproportionate effect through the amount of publicity they receive. In this sense, counterterrorism efforts only inflate terrorism’s impact, reinforcing its power to intimidate and unsettle”.⁴³⁵ Jones and Libicki refer to countering this publicity and write, “winning the media war to label terrorists as criminals is especially important and virtually impossible to do in the face of a strategy based on military force”.⁴³⁶ Lastly, “every time we pretend we are fighting for our survival we not only confer greater power and importance to terrorists than they deserve but we also at the same time act as their main recruiting agent by suggesting that they have the slightest potential for success”.⁴³⁷

The fact that “in most cases ... acts of international terrorism are primarily crimes under common law” deserves to be highlighted further. One major difference found in this comparative case study was between the British and Spanish methods of counterterrorism with regard to counterterrorism legislation. While Britain continuously

⁴³³ Jones and Libicki, 27

⁴³⁴ Jones and Libicki, 131

⁴³⁵ Decaux, 46

⁴³⁶ Jones and Libicki, 129

⁴³⁷ Mueller, 315

enacted or re-enacted emergency and non-emergency legislation to combat terrorism, Spain largely has combated the terrorist threat with its Penal Code. While it is true that the Spanish Penal Code provides for longer or tougher sentences for crimes related to terrorism, the Spanish method is arguably more effective and true to the democratic system of governance given the facts that alleged terrorists can be tried more quickly for their crimes and that it is easier to prosecute someone for a given crime than it is to prosecute someone for suspected, or known, terrorist affiliation.

One last policy implication regards the fact that analysts and scholars have largely avoided linking the concept of moral panics to terrorism. As this thesis demonstrates with the evidence from the British and Spanish cases, this should be re-visited, because not only is there a demonstrated connection between moral panics and terrorism, but also because it may be that in preventing a moral panic from occurring, or recognizing one in its formation, that it would be possible for democratic states remain democratic in their counterterrorism initiatives. The following excerpt is quoted at length because it offers an excellent depiction of how scholars of moral panics reacted to the terrorist attacks of 9/11 and the potential problems that could arise from their reactions:

In the aftermath of 9/11 it was noticeable that commentators carefully avoided describing the reaction as a moral panic – even when the conduct of the press, the control apparatus, and the public seemed to invite precisely this kind of analysis. Indeed, there was an article published six months after the events (Walker, 2002), interviewing a number of ‘moral panic’ sociologists – Joel Best, Phillip Jenkins, Eric Goode – all of whom took great care to refuse the attribution of this term to the reaction, even though, as they noted, it appeared to fit the model in most aspects. Why was this? In part, no doubt, it was due to uncertainty about the nature of the threat involved. ... no one was sure about the scale of the danger or the likelihood of subsequent attacks. But the primary reason for this reluctance to invoke the idea of ‘moral panic’ was, I think, an ethical one. These sociologists were unwilling to challenge the moral sentiments that drove the social reaction. They were unwilling to play the debunking

skeptics in the face of such intense grief and fear and so many murdered victims. It seems likely, at least to me, that they saw the attribution of 'moral panic' as analytically appropriate but ethically taboo.⁴³⁸

One positive aspect regarding the media coverage linking terrorism to moral panics, however, is, as Altheide points out, that while the more mainstream news media will not connect the link between terrorism and moral panics, that some alternative news media are willing to make this link, and Altheide, furthermore, argues that this is especially true in the United States.⁴³⁹ Given the evidence of moral panics demonstrated in this comparative case study and the discrepancies between Spain and the United Kingdom in their counterterrorism initiatives, especially in the post 9/11 world, this is a link that should not be overlooked.

In conclusion, while the data demonstrate the existence of a moral panic in both Spain and the United Kingdom and that the public has an active, though not unitary, role in creating and sustaining a moral panic, a surprising conclusion evident from the data is *the role of the age of a democracy* in being conducive to the formation of a moral panic. As aforementioned, the Spanish case reflects a moral panic but this reflection is most apparent in the years of Spain's transition to democracy. The data from the Spanish case reflect concern for staying within the confines of the democratic system to combat terrorism, which was especially true once they confronted their own misguided counterterrorism measures, such as the use of the GAL. In other words, the fact that Spain did not take their democracy for granted, as they were transitioning to democracy and later a consolidating, fledgling democracy, especially compared to the U.K., led them to pursue more democratically legitimate counterterrorism measures for fear of

⁴³⁸ Garland, 24-25

⁴³⁹ Altheide, 93-94

destroying their democracy. Therefore, in sum, democratic states would find it immensely beneficial to not take their democracies for granted, because while freedom is not free, freely choosing counterterrorism policies that undermine democracy will only lead to the destruction of democracy and associated freedoms. In other words, although it is difficult to find the right balance between liberty and security, the costs of choosing security over liberty too often are far greater than choosing liberty over security, because once the foundation of democracy is torn apart, it may not be easy to repair. Recognizing the formation or re-emergence of a moral panic regarding terrorism is one method that would prove beneficial to democratic states and their citizenries, as it would caution them to exercise prudence in their counterterrorism initiatives so as to prevent the destruction of their democracy from ever becoming a reality. Moreover, as this case study has demonstrated, the public is able to exert influence over their governments, especially when organized, and therefore, they should continue to hold their governments accountable, and not permit them to try to convince the public to be swept away in a moral panic and this is especially true the older a democracy is. The good news is that by exercising prudence in counterterrorism measures, holding governments accountable, recognizing moral panics as they form, and not taking democracy for granted, regardless of how long it has been the system of governance in a given country, democratic states can help prevent themselves from falling into the trap of achieving what some terrorists want: the destruction of the democratic system.

Table 1: Moral Panic Indicators in Spanish Data Sources

	Public Opinion	Action Groups	Editorials	Statements	Security Forces	Legislation
Heightened Level of Concern	X	X	X	X	X	X
Increased Level of Hostility	X	X		X	X	X
Substantial or Widespread Agreement or Consensus that the Threat is Real, Serious, and Caused by the Wrongdoing Group Members and Their Behavior	X	X	X	X	X	X
Disproportionality	X	LIMITED	X		X	LIMITED
Volatility	X	LIMITED		X	X	

X = presence of Moral Panic indicator

Table 2: Moral Panic Indicators in U.K. Data Sources

	Public Opinion	Action Groups	Editorials	Statements	Security Forces	Legislation
Heightened Level of Concern	X	X	X	X	X	X
Increased Level of Hostility	X	X	X	X	X	X
Substantial or Widespread Agreement or Consensus that the Threat is Real, Serious, and Caused by the Wrongdoing Group Members and Their Behavior	X	X	X	X	X	X
Disproportionality	X	X	X	X	X	X
Volatility	X	LIMITED	X	X	X	X

X = presence of Moral Panic indicator

Appendix I: List of Action Groups:

Spanish Action Groups

The following list of Action Groups in Spain is listed first by their original name (if in Basque the Spanish translation follows first) followed by their English translation:

1. *La Asociación de Vecinos de Sant Andreu*, The Association of Neighbors of Saint Andrew: A neighborhood association that organized demonstrations against the terrorist attack of the commercial center in Barcelona.
2. *La Asociación Víctimas del Terrorismo*, The Victims of Terrorism Association: An association created in 1981 whose aim is to aid families of victims of terrorism in advice and moral and material support.
3. *La Asociación de Víctimas del 11-M*, The 11-M Victims Association: Founded three months after the 11 March 2004 attacks in Madrid, this association's main objective is to ensure all those affected in the 11-M attacks receive the medical, psychological, social and legal support they need.⁴⁴⁰
4. *La Asociación por la Paz de Euskal herria (País Vasco)*, The Association for the Peace of the Basque Country: An association created in 1986 that served as the "principle daily witness to the rejection of political violence in *Euskadi*".⁴⁴¹
5. *La Asociación Pro Derechos Humanos (del País Vasco)*, The Pro Human Rights Association (of the Basque Country): An association that fights for the protection of human rights in the Basque Country.
6. *El Colectivo de Víctimas del Terrorismo del País Vasco (COVITE)*, The Collective of Victims of Terrorism of the Basque Country: Created in November 1998 "with the intention to become a basic and inescapable reference in any peace process that could be undertaken in Basque Autonomous Community".⁴⁴²
7. *La Confederación Empresarial Vasca (Confebask)*, The Basque Business Confederation: Formed in 1983 to "represent and defend the interests of Basque businessmen" including to stand firm against terrorism and speak out against violence

⁴⁴⁰ http://asociacion11m.org/quienes_somos.php

⁴⁴¹ Barbaría, José Luis, "La Asociación por la Paz de Euskal Herria, respuesta a la violencia en el País Vasco", *El País*, 12 May 1987

⁴⁴² http://www.covite.org/covite_covite.html

and to represent the more than 13,000 private enterprises that are integrated into Confebask.⁴⁴³

8. La Comisión Obrera de Andalucía (COAN), The Workers' Commission of Andalucía: “[A]n independent, democratic, and class union, that defends the professional, economic and social interests of working men and women in all areas, especially in all workplaces”.⁴⁴⁴

9. La Confederación Española de Organizaciones Empresariales (CEOE), The Spanish Confederation of Business Organizations: The CEOE was founded in 1977 and “is the major representative institution of the Spanish business community”.⁴⁴⁵

10. Denon Artean – Paz y Reconciliación, Peace and Reconciliation: An association dedicated to peace and reconciliation in the Basque Country.

11. Diálogo, Dialogue: An association founded in 1983 whose objective is “to promote and encourage activities that promote a better understanding and dialogue between Spain and France”.⁴⁴⁶

12. Elkarri: Founded in 1992, “Elkarri is the social movement for dialogue and agreement in the Basque Country”.⁴⁴⁷

13. La Federación Provincial de Asociaciones de Vecinos, The Provincial Federation of Neighborhood Associations: Foundations in each of Spain's provinces that work on behalf of and with those living in their communities for their social wellbeing, citizen participation, and youth and social movements among many other things.⁴⁴⁸

14. La Fundación de Víctimas del Terrorismo, The Foundation for Victims of Terrorism: A foundation that “intends to promote and spread democratic values, the defense of human rights, and the plurality and freedom of citizens, and at the same time, to be a useful vehicle for consultation for a better understanding of the situation of victims of terrorism as a whole in Spain”.⁴⁴⁹

15. Gesto por la Paz (de Euskal Herria), Gesture for the Peace (of the Basque Country): “[A] pacifist, civic, unitary, pluralist and independent platform that constitutes an organized response of civil society against the constant scourge of violence that the

⁴⁴³ <http://www.confebask.es/Castellano/acercade.htm>,

<http://www.confebask.es/Castellano/historia.htm>

⁴⁴⁴ http://www.andalucia.ccoo.es/webandalucia/menu.do?Conoce_CCOO: Quienes_somos?

⁴⁴⁵ <http://www.ceoe.es/ceoe/contenidos.type.action?type=0864321&menuId=0864321>

⁴⁴⁶ <http://www.dialogo.es/es/quienes-somos/origen-y-objetivos.html>

⁴⁴⁷ <http://www.elkarri.org/en/textos/quienes.php>

⁴⁴⁸ http://aavvmadrid.org/index.php/aavv/quienes_somos/Historia

⁴⁴⁹ http://www.fundacionvt.org/index.php?option=com_content&task=view&id=14&Itemid=30

Basque and Navarrese people suffer from under some alleged political goals for this society”.⁴⁵⁰

U.K. Action Groups

1. The British Irish Rights Watch: “An independent non-governmental organisation that has been monitoring the human rights dimension of the conflict, and latterly the peace process, in Northern Ireland since 1990”; provides services “free of charge to anyone whose human rights have been violated because of the conflict, regardless of religious, political or community affiliations”.⁴⁵¹
2. Committee on the Administration of Justice (CAJ): “[A]n independent human rights organisation working since 1981 to ensure the protection and promotion of human rights of all those in Northern Ireland by reference to internationally agreed human rights standards”.⁴⁵²
3. Criminal Injuries Compensation Board: “[A] government organisation that can pay money (compensation) to people who have been physically or mentally injured because they were the blameless victim of a violent crime”.⁴⁵³
4. Derry Citizens’ Action Committee: “A group established on 9 October 1968 which was made up of representatives from a number of groups which at that time operated in Derry.”⁴⁵⁴
5. Families Acting for Innocent Relatives (FAIR): “[F]ormed as an non-sectarian, non-political organisation to work in the interests of the innocent victims of terrorism in South Armagh”.⁴⁵⁵
6. Irish Commission for Prisoners Overseas (ICPO): “[A] voluntary agency that provides assistance to Irish prisoners overseas and to their families in Ireland”.⁴⁵⁶
7. Irish Council for Civil Liberties (ICCL): Founded in 1976, the ICCL “is Ireland’s leading independent human rights watchdog, which monitors, educates and campaigns in order to secure full enjoyment of human rights for everyone”.⁴⁵⁷
8. National Association of Victims Support Schemes: An “independent charity for victims and witnesses of crime” that has “grown to become the oldest and largest victims’

⁴⁵⁰ <http://www.gesto.org/definicion.htm>

⁴⁵¹ <http://www.birw.org/>

⁴⁵² <http://www.caj.org.uk/>

⁴⁵³ <http://www.cica.gov.uk/>

⁴⁵⁴ <http://cain.ulst.ac.uk/othelem/organ/dorgan.htm>

⁴⁵⁵ http://victims.org.uk/s08zhk/index.php?option=com_content&task=view&id=1&Itemid=2

⁴⁵⁶ <http://www.dfa.ie/home/index.aspx?id=277>

⁴⁵⁷ <http://www.iccl.ie/about-the-iccl-2.html>

organisation in the world” contacting “over 1.5 million people [every year] after a crime to offer ... help”.⁴⁵⁸

9. The National Council for Civil Liberties (currently known as Liberty): “Founded in 1934, ... Liberty seeks to protect civil liberties and promote human rights for everyone [and] campaigns to protect basic rights and freedoms through the courts, in Parliament and in the wider community ... through a combination of public campaigning, test case litigation, parliamentary lobbying, policy analysis and the provision of free advice and information”.⁴⁵⁹

10. The National Victims Association: “The UK’s largest and longest established specialist homicide support charity [that] provide[s] a comprehensive advocacy, advice, counselling and support service to families bereaved through murder or manslaughter, and are widely regarded by many Government Ministers, statutory agencies, Police forces and Churches as the leading Charity specialising in this field of work”.⁴⁶⁰

11. Northern Ireland Civil Rights Association (NICRA): “The main organisation involved in the Civil Rights movement from the late 1960s to the 1970s. The NICRA grew out of the work of the Campaign for Social Justice (CSJ) and was modelled on the National Council for Civil Liberties based in London. The first committee of the NICRA was made up of representatives of trade unions and some of the political parties. The NICRA had a number of main aims: universal adult suffrage in local government elections; the end to 'gerrymandered' electoral boundaries; the allocation of public housing to be on the basis of need; repeal of the Special Powers Act; the disbanding of the 'B-Specials'; the end to discrimination in employment; and a system to deal with complaints of discrimination.”⁴⁶¹

12. Relatives of Bloody Sunday Victims: A group comprised of members who lost family members and friends in the events of Bloody Sunday who campaigned for independent inquiry into the fateful events of that day.

13. Relatives for Justice: “Founded in April 1991 [by] ... a number of bereaved families affected by the conflict came together to support one another. ... [A] Belfast based NGO support group working with and providing support to relatives of people bereaved, and injured, by the conflict across the North of Ireland including border regions in the 26 counties”.⁴⁶²

⁴⁵⁸ <http://www.victimssupport.org.uk/About%20us>

⁴⁵⁹ <http://www.liberty-human-rights.org.uk/about/index.shtml>

⁴⁶⁰ <http://www.victimfirst.co.uk/nva/Home.html>

⁴⁶¹ <http://cain.ulst.ac.uk/othelem/organ/norgan.htm>

⁴⁶² <http://www.relativesforjustice.com/about-us.htm>

Appendix II: Counterterrorism Legislation

Select Legislation Used in Spanish Counterterrorism Initiatives⁴⁶³

- Decree-Law 10/1975, of 16 August, *Sobre Prevención del Terrorismo*, (on the Prevention of Terrorism)
- Decree-Law 1/1977, of 4 January, for the Creation of the National Court (*Audencia Nacional*)
- *Constitución Española* (Spanish Constitution) approved by referendum 6 December 1978
- Decree-Law 21/1978, of 30 June, *sobre Medidas en Relación con los Delitos Cometidos por Grupos o Bandas Armadas*, (on Measures in Relation to the Crimes Committed by Armed Bands or Groups)
- Organic Law 56/1978, of 4 December, *de Medidas especiales en Relación con los Delitos de Terrorismo Cometidos por Grupos Armados* (Special Measures toward Crimes of Terrorism Committed by Armed Groups)
- Organic Law 1/1979, of 16 septiembre, *de General Penitenciaria* (on General Penitentiary)
- Decree-Law 3/1979, of 26 January, *sobre Protección de la seguridad ciudadana* (on the Protection of Citizen Security)
- Organic Law 3/1979, of 18 December, *Estatuto de Autonomía del País Vasco*, (Statute of Autonomy of the Basque Country)
- Organic Law 40/1979, of 10 December, *sobre Régimen jurídico de Control de Cambios* (on the Legal Status of Exchange Control)

⁴⁶³ There are “four basic types of Spanish legislation, in order of importance, are: (1) organic laws; (2) ordinary laws; (3) decree laws; and (4) legislative decrees. Organic laws are reserved for special subject matters. In particular, organic laws deal with the regulation of fundamental rights and liberties, the passage of the autonomous communities’ Statutes of Autonomy, and the regulation of the electoral regime. C.E. [*Constitución Española*, Spanish Constitution] art. 81(1). Moreover, organic laws can be passed only by the affirmative vote of an absolute majority of the Parliament. *Id.* Art 81(2). Ordinary laws are those passed by a simple majority of the legislature, and which regulate matters not subject to organic laws. *Id.* art. 90(2). Decree laws are temporary laws passed by the executive subject to approval by the legislature within thirty days. *Id.* art. 86 (1)-(2). Like ordinary laws, decree laws may not affect subjects regulated by organic laws. *Id.* art. 86(1). Finally, legislative decrees are laws promulgated by the government pursuant to a legislative grant of authority. *Id.* art 82 (3).” (MacKinnon, 615, footnote 52)

- Real Decree Law 190/1980, of 1 February, *sobre Delegados Especiales del Gobierno para la Seguridad*, (on Special Government Delegates for Security)
- Organic Law 4/1980, of 21 May, *de Reforma del Código Penal en materia de delitos relativos a las libertades de expresión, reunión y asociación*, (On the Reform of the Penal Code on Crimes Related to the Freedoms of Expression, Meeting, and Association)
- Organic Law 6/1980, of 1 July, *por la que se regulan los criterios básicos de la Defensa Nacional y la Organización Militar*, (for the Regulation for the Basic Criteria of National Defense and Military Organization)
- Organic Law 11/1980, of 1 December, *sobre los supuestos previstos en el artículo 55.2 de la Constitución* (on the Cases Referred to in Article 55.2 of the Constitution)
- Organic Law 2/1981, of 4 May, *que modifica y adiciona determinados artículos del Código Penal y del de Justicia Militar*, (to Modify and Add Determined Articles of the Penal Code and of the Military Justice)
- Organic Law 4/1981, of 1 June, *de los Estados de Alarma, Excepción y Sitio* (on States of Alarm, Exception and Sites)
- Organic Law 1/1984, of 5 January, *de reforma de la Ley Orgánica 6/1980, de 1 de julio, por la que se regulan los criterios básicos de la defensa nacional y la organización militar* (on the Reform of Organic Law 6/1980, of 1 July, for Regulation of the Basic Criteria of National Defense and Military Organization)
- Law 5/1984, of 26 March, *Reguladora del derecho de asilo y de la condición de refugiado*, (Regulating the Right of Asylum and Refugee Status)
- Organic Law 6/1984, of 24 May, *Reguladora del Procedimiento Habeas Corpus*, (Regulating Habeas Corpus Procedure)
- Organic Law 9/1984, of 26 December, *contra la actuación de Bandas armadas y elementos terroristas y de desarrollo del artículo 55.2 de la Constitución* (Against the Actions of Armed Groups and Terrorist Elements and the Development of Article 55.2 of the Constitution)
- *Castellana Accords* 1984
- Organic Law 6/1985 of 1 July, *del Poder Judicial* (on Judiciary Powers)
- Organic Law 13/1985, of 9 December, *de Código Penal Militar* (on the Military Penal Code)
- Organic Law 2/1986, of 13 March, *de Fuerzas y Cuerpos de Seguridad* (on State Security Forces and Bodies)
- Organic Law 4/1987, of 15 July, *de la Competencia y Organización de la Jurisdicción Militar* (of the Competence and Organization of Military Jurisdiction)
- Pact of Madrid 5 November 1987

- Organic Law 3/1988, of 25 May, *de Reforma del Código penal* (for Reform of the Penal Code)
- Organic Law 4/1988, of 25 May, *de reforma de la ley de Enjuiciamiento Criminal* (for Reform of the Criminal Prosecution Act)
- Pact of *Ajuria Enea* 12 January 1988
- Pact of Navarra 7 October 1988
- Organic Law 2/1989, of 13 April, *Procesal Militar* (on Military Procedure)
- Organic Law 1/1992, of 21 February, *sobre Protección de la Seguridad Ciudadana* (on the Protection of Public Safety)
- Organic Law 10/1995, of 23 November, *del Código Penal* (on the Penal Code)
 - Title XII “Crimes Against Public Order”, Chapter V on Possession, Trafficking, and Deposit of Arms, Ammunition, or Explosives and Terrorist Crimes, Section 2, Articles 571-580 deal specifically with terrorism related offenses
- Law 12/1996, of 19 December, on Help to the Victims of Terrorism
- Law 13/1996, of 30 December, on Fiscal, Administrative Measures and of the Social Order
- Law 44/1998, of 15 December, of Plan and Territorial Organization of Military Jurisdiction
- Law No. 41/1999 of 12 November, *sobre Sistemas de Pagos y de Liquidación de Valores*, (on Payment Systems and Liquidation of Assets)
- Law 32/1999, of 8 October, *de Solidaridad con las víctimas del terrorismo* (on Solidarity with the Victims of Terrorism)
- Law 1/2000, of 7 January, *de Enjuiciamiento Civil* (of Civil Procedure)
- *Acuerdo por las libertades y contra el terrorismo*, of 8 December 2000 (Accord in Favor of Liberties and Against Terrorism)
- Organic Law 7/2000 *de modificación de la Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal, y de la Ley Orgánica 5/2000, de 12 de enero, reguladora de la Responsabilidad Penal de los Menores, en relación con los delitos de terrorismo* (on the modification of Organic Law 10/1995, of 23 November, of the Penal Code, and of Organic Law 5/2000, of 12 January, regulating Penal Responsibility of Minors, in Relation with Crimes of Terrorism)
- Penal Code modifications 2001
- Organic Law 6/2002, of 27 June, *de Partidos Políticos* (on Political Parties)
- Law No. 34/2002, of 11 July, *de servicios de la sociedad de la información y de comercio electrónico* (on Services of the Information Society and of Electronic Commerce)

- Organic Law 7/2003, of 30 June, *de medidas de reforma para el cumplimiento íntegro y efectivo de las penas*, (On Measures of Reform for Full and Effective Penalties)
- Organic Law 13/2003, of 24 October, *de Reforma de la Ley de Enjuiciamiento Criminal en material de prisión provisional* (on Reform of the Criminal Prosecution Law regarding Provisional Detention)
- Organic Law 20/2003, of 23 December, *de modificación de la Ley Orgánica del Poder Judicial y del Código Penal*, (On the Modification of the Organic Law on Judicial Power and of the Penal Code)

International

- The Universal Declaration of Human Rights 1948, codified in Article 10(2) of the Spanish Constitution
- The North Atlantic Treaty Organization (NATO) 1949, ratified in 1982
- The Convention for the Protection of Human Rights and Fundamental Freedoms 1950
- The European Convention on Human Rights (ECHR) 1953
- The European Convention on Extradition 1957, ratified in 1982
- The International Covenant on Civil and Political Rights (ICCPR) 1976, ratified in 1979
- The European Convention of the Suppression of Terrorism 1977, ratified 9 May 1980
- The United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984
- The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment of Punishment 1987
- The Europol Convention 1995
- The United Nations Convention for the Suppression of Terrorist Bombing and for the Suppression of the Financing of Terrorism 1999
- The Council Framework Decision on Combating Terrorism 2002
- The Council of Europe Convention on the Prevention of Terrorism 2005

Other

- March 1981, creation of the single centralized command for the fight against terrorism, known as *Mando Unico para la Lucha Contraterrorista* (Single Command for the Counterterrorism Fight)
- Pact of Madrid 5 November 1987
- Pact of *Ajuria Enea* 12 January 1988
- Pact of Navarre 7 October 1988

Select Legislation Used in U.K. Counterterrorism Initiatives

- The Offences Against the Person Act 1861
- The Explosive Substances Act 1883
- The Aliens Registration Act 1914
- The Aliens Restriction (Amendment) Act 1919
- The Civil Authorities (Special Powers) Act (Northern Ireland) of 1922
- The Prevention of Violence (Temporary Provisions) Acts 1939-73
- The Immigration Act 1971
- The Northern Ireland (Emergency Provisions) Act 1973 – 1996
- The Biological Weapons Act 1974
- The Prevention of Terrorism (Temporary Provisions) Act 1974-1989
- The Biological Weapons Act 1976
- The Race Discrimination Act 1976
- The Criminal Law Act 1977
- The Suppression of Terrorism Act 1978
- The Criminal Attempts Act 1981
- The Forgery and Counterfeiting Act 1981
- The Police and Criminal Evidence Act (PACE) 1984
- The Public Order Act 1986
- The Biological Weapons Act 1989
- The Official Secrets Act 1989
- The Prevention of Terrorism (Temporary Provisions) Act 1989
- The Criminal Justice and Public Order Act 1994
- The Northern Ireland (Emergency Provisions) Act 1996
- The Chemical Weapons Act 1996
- The Crime and Disorder Act 1998
- The Criminal Justice (Terrorism and Conspiracy) Act of 1998
- The Good Friday Accords 1998
- The Human Rights Act 1998
- The Northern Ireland (Sentences) Act 1998
- The Terrorism Act 2000
- The Regulation of Investigatory Powers (RIPA) Bill 2000
- The Anti-terrorism, Crime and Security Act (ATCSA) 2001
- The Human Rights (Designated Derogation) Order 2001
- The Crime (International Cooperation) Act 2003
- The Criminal Justice Act 2003
- The Constitutional Reform Act 2005

- The Civil Contingencies Act 2004
- The Prevention of Terrorism Act 2005
- The Immigration, Nationality, and Asylum Act 2006
- The Terrorism Act 2006

International⁴⁶⁴

- The Universal Declaration of Human Rights, ratified in 1948
- The North Atlantic Treaty Organization (NATO) ratified in 1949
- The United Nations Refugee Convention 1951
- The European Convention on Human Rights (ECHR) 1953
- The European Convention on Extradition 1957
- The International Covenant on Civil and Political Rights (ICCPR) 1976
- The European Convention of the Suppression of Terrorism 1977
- The United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984
- The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment of Punishment 1987
- The Chemical Weapons Convention 1992
- The United Nations Convention for the Suppression of Terrorist Bombing and for the Suppression of the Financing of Terrorism 1999
- The United Nations Security Council Resolution 1373 2001
- The United Nations Security Council Resolution 1378 2001
- The Council Framework Decision on Combating Terrorism 2002
- The Council of Europe Convention on the Prevention of Terrorism 2005

Decisions

- The Farrakan Decision 1986
- The ‘*Soering*’ Principle 1989
- The Brannigan and McBride Decision 1993
- *Chahal v. UK* (1996)
- The Roma rights case
- The Special Immigration Appeals Commission (SIAC) decisions
- *A (and others) v. Secretary of State for the Home Department* (2004)
- *Secretary of State for the Home Department v. M* (2004)
- *Secretary of State for the Home Department v. JJ, KK, GG, HH, NN, and LL* (2006)

⁴⁶⁴ The U.K. has ratified, without reservations, all of the international conventions concerning the prevention and repression of terrorism.

Appendix III: Editorial Translations

“First Blood” (*Primera Sangre*) 11 March 1978

Before the attacks yesterday that took the lives of an armed police officer in Madrid and of a retired *Guardia Civil* officer in San Sebastian, there is little more than ritualizing the mourning and condemnation. The man killed two of his own species and that is how it will continue to happen unless there is a genetic mutation. We will have terrorism with democracy like we had with the dictatorship. There will always be marginal groups that include in their analysis the factor of “the worse, the better”. From the extreme left with the objective of inciting the more fundamentalist sectors to think in a dictatorship that – according to such schemes – drive in the medium term [toward] a social revolution, and from the extreme right with the same dictatorial objective but with intent to be permanent. In the short term some give as much as the others; as if they are not delinquents of the same path.

But today it is necessary to stress that in less than one week two services of the Armed Police Forces have received their baptism in blood: the EDAX (bomb disposal) and that of the surveillance patrols, very recently created. Two days ago in Santa Cruz de Tenerife the first EDAX artificer [explosives expert] died, killed in service trying to remove an explosive. With very precarious technical means, on occasion with the mere protection of a shield and helmet with a visor, the agents of this grouping of the Armed

Police remove and disassemble practically daily every type of artifact from buildings and public ways.

On their part, the agents of the surveillance patrols have started to make themselves normal and known in the streets regardless of whether or not they prevent public disturbances. Following the Anglo-Saxon model that has given good results they watch for the security of the neighbors, offer their services to whoever asks for it and quickly recover stolen cars that before took weeks to appear.

The murderers have chosen their victims well. Because a serious intellectual distortion is missing to associate these two servicemen of the Armed Police with activities of social or political repression. Today honor these men that patrol the street or that remove bombs from the roads for us and that have already had their first blood in active service.

Democracy Against Terrorism (*Democracia frente a terrorismo*) 1 April 1978

Fifteen days since one of the most spectacular terrorist attacks in contemporary history, the Italian Politian Aldo Moro is still in the hands of his kidnappers, serving at the same time the shocking publicity and dramatic blackmail of not only the so-called “established system”, but also the political regime of the same Italians that democratically elected him. It is an act that goes beyond the simple definition of a criminal act. An attack against a person, against a regime, against a community, and against a conception of the world. From there the attempts that have taken place in the western democratic community, harassed and tense by the increase of violence and terrorism, to equip itself with an adequate legal methodology to fight against this tragic

avalanche. The Council of Europe has arbitrated an instrument, admittedly it is still controversial, that is the European Convention for the Repression of Terrorism, already signed by sixteen countries; those that have not yet are Ireland, Malta, and Spain, which is the most recent member of the organization and hardly has had the time to do so. The countries of the Common Market, for their part, currently are negotiating a similar text, more restrictive than the previous, that will be applicable in the nine countries of the EEC [European Economic Community]. In the U.N., however, things do not seem to be going in the same direction, since last February a commission of experts of the organization, brought together to study the problem, adjourned without any result.

The European antiterrorism convention, despite its critics that have arisen even within Europe, will enter into force sooner or later. The reservations that have been made are centered in the argument that the text – directly inspired by Federal Germany, the country that has gotten the farthest in this area – considerably limits democratic liberties, above all in what is referred to as the concept of political crime and the right to asylum. Bonn, who has suffered very directly from this rise in terrorism, has preferred to take the middle ground and respond to violence with violence. An extremely dangerous method that without a doubt is more than a danger for democracy. But it does not also stop to be a logical temptation.

Ten or fifteen years ago, for example, in the Western world the idea to abolish the death penalty broke through. Not only did many countries erase it from their penal legislations, but also public opinion in almost all of Europe was inclined toward this measure of human justice. Today, on the contrary, surveys demonstrate that the increase in violence in the industrial society has provoked the break of all humanism, and today

the Western towns are favorable to the death penalty for the pure and terrible reflection of what is called legitimate defense. In France the number in favor of capital punishment is increasing and Giscard himself, who declared his opposition to it before being elected president, not only has not proposed its abolition, but also has permitted it to be applied. Finally, regarding the rise and growth of terrorism, Paris has joined Bonn to sponsor the controversial antiterrorism convention.

Violence creates violence, and the collective reflection before the wave of the terrorist threat passing instinctively above all ideological or moral consideration to demand concrete results. This is the terrain in which it is most evident that the terrorists are achieving their goals. They are making the European public opinion doubt the values of democracy and of civil liberties.

In the United Nations, some representatives of non-European countries, such as Algeria, Libya or Syria, have refused to work on developing a universal treaty against terrorism. They have manifested their opposition to an accord that prevents hijackings, considering that “it would restrict the already precarious means that the liberation movements have”. Naturally, the Near East and the OLP [Organization for the Liberation of Palestine] are behind the taking of this position. The problems that terrorist acts raise should, therefore, also be resolved politically; colonial violence or war, the historical grievances of the peoples of the Third World have widened a good part of the terrorist violence, that at the same time threatens to destroy the democratic system. This analysis of the facts is useless when it comes to trying to morally justify the same. Terrorism is the worst of the ills that plague civilized society, and it has to be fought. But it would be wise

to know that the world is headed toward *zones* in which terrorism will receive different treatment and where politics will play a role in the terror business.

However, it may be, the people who defend democratic values, among them Italy, among them today happily Spain itself, cannot and should not fight against violence, renouncing these convictions. The narrow path that remains is to refine the legal means to make them more efficient and robust: to perfect the police and legal machinery, giving them the best and most modern means of investigation. But do not fall into the trap of blowing up the same world of liberties that it is supposed to defend.

“The Government, Again against the Constitution” (*El Gobierno, de nuevo contra la Constitución*) 5 December 1979

It is not easily comprehensible, and even less excusable, the persistent perseverance with which the Government borders the terrain of unconstitutionality, or they openly step on it, on what is referred to as the individual rights and guarantees recognized in Title I of the Constitution. When the sanctioning of the fundamental text was not even a month ago, the decree-law of Public Safety, enacted quickly and running, with clear electoral objectives, poorly able to withstand the criticisms that denounced its unconstitutional character. Now, in dates close to the first anniversary of the constitutional referendum, the *Boletín Oficial del Estado* [Official State Bulletin] publishes a new decree-law that not only extends for a year the Antiterrorism Law of 4 December 1978, but also, moreover, widens in a manner quite exotic, the ambit of competences of the *Audencia Nacional* [National Court]. If the decree-law of 28 January 1979 could only save face for its constitutionality in Congress by means of the discipline

of the UCD vote, some grams of cynicism and various kilos of fallacious arguments, the Government's recidivism to continue in this path is already a useless scandal. Moreover, and incidentally, because, predictably, the Antiterrorism Law has not been of any use in fighting political violence in this country. Article 86 of the Constitution *conditions* the use of decree-laws in cases of "extraordinary and urgent necessity" and explicitly and exhaustively *prohibits* their enactment when they affect "the rights, duties and freedoms of citizens, regulated in Title I". The new decree-law extends the validity of a law that establishes substantial cuts to *habeas corpus*, the inviolability of the home and the secrecy of the postal, telephonic and telegraphic communications guaranteed by Articles 17 and 18 in Title I of the Constitution. This norm, so gallantly flattered with a fixed one year extension, in the first of its final depositions, that its validity would be a year from its enactment, without making the smallest reference to the possibility of extension.

Is it possible to conceive of a more arbitrary decision than the Government's violation of the norm established in Article 86 of the Constitution for the enactment of decree-laws and a very contemptuous attitude toward the work of the previous legislature, equally controlled by the UCD, than the violation of the expressed will of limiting a law to only be in force for one year? Now we believe so. Because this same decree-law includes, apropos, a generous expansion of the competences of the National Court in issues barely related to terrorism such as the falsification of money, organized prostitution, the public scandal produced by pornographic movies and drug trafficking. If this modification of jurisdictional boundaries corresponds to the organic law on Judicial Power, whose project has already been sent to the Courts, the Government has seen fit to

consider it of “extraordinary and urgent necessity” to strip the natural judges and the provincial courts from this, it seems, explosive package of competences.

Without a doubt, the reason for this extension through an inappropriate decree-law is that the Government forgot when signaling the priorities of its legislative calendar and did not notice that the Law of Public Safety would come into effect *after* it ceased to be called the Antiterrorism Law. It is not surprising that a party such as UCD, which boasts having the best experts in law, has broken in this instance all of the brands of legal bundling. But the most lamentable is that the UCD, that presents itself around the entire planet as a champion in the defense of human rights, can cut citizens’ guarantees and liberties without respecting the procedures and without taking the precautions exhaustively established in Article 86 of the Constitution. And we say it is lamentable, but it is barely a surprising result, because the seriousness of the democratic convictions of many centrist deputies are being, and not without reason, questioned. Here, the patents of democracy are not extended by anyone. But anyone can show their own badge of authoritarianism and disregard for freedoms. We refer ourselves to the tests.

Terrorism and Independence (*Terrorismo e independentismo*) 17 May 1980

The CRIMES of ETA *militar* will never lose, despite the cumulative and appalling character of their frequency, the ability to produce that invincible feeling of horror and contempt that still engenders the cruel cowardice of the murderers, and leads, again and again, to ask how the human species can permit in their codes of conduct the possibility that someone takes the life of a fellow [human being]. The political justifications and the ideological motivations that terrorists use to turn their sinister

ambushes in epic stamps only adds to the vileness of the crime the contempt for the ability of men to reason, discuss and decide on their own the destiny of their public life. For these fanatics, clinging to the simplifications of their catechisms and the butts of their guns, they do not use conviction, but intimidation, to impose, by blood and fire, their programs and ideas. Those who think that the flags are used to wash the blood of Cain, which stains the murderers, or that the patriotic hymns need the rattle of arms as an accompaniment are wrong. Although the verbal and gestural revolution of the traveling companions of ETA *militar* are offensive, increasingly, in their mechanisms of motivation and murderous conduct, the Basque terrorists and right-wing fascists are indistinguishable. Certainly the symbolic emblems, the warrior sounds, the political rationalizations and ideological contents are distinct between both species of patriots. However, such contempt for fellow man, the denial of the fundamental human right that is the right to life and the fanatical and stupid arrogance of considering themselves owners of the truth and bearers of mysterious essences is related in the brotherhood of crime in these two tribes of violence cultivators.

The new wave of killings in *Euskadi*, has coincided with the proposition of law that the PNV will submit to the Basque Parliament, which follows the brave previous statements of the Basque Government and the Minister of the Interior against violence and the "revolutionary tax". This is not a coincidence. As in the past, each measure of the Government and of the Courts in favor of autonomy and of peace in *Euskadi* had as a response a barbaric act of terrorism, the clear route of the Basque government toward peace and the strengthening of democracy now receives an identical criminal response.

The PNV calls on all *Euskadi* political forces to renounce "violence of any kind and the use of arms" and to accept "the political pathways as the only channel, within the democratic system, for the legitimate and necessary confrontation of all ideologies and options". It also underlines the necessity of ensuring the "strict adherence to any and all rights of the person, especially that [to the right] of life".

The document also addresses other issues and problems that are related to the consolidation of structures of coexistence among Basques, which could permit the eradication of the phenomenon of violence in the medium term. Thus, the legalization of all political parties and the freedom of expression, vindicated in the text, point, no doubt, toward the convenience of not depriving the voice of the independent options or their ability to organize within the law. On more than one occasion we have argued, from these columns, the right of all citizens to freely express opinions and to organize to propagate them. The only limitations on that right of association is to not peacefully defend the independence movement, but that which is established in Article 22 of the Constitution, which prohibits "secret societies and those of a paramilitary nature" and that [which] establishes that "associations which pursue ends or use methods, characterized as criminal are illegal".

Regarding the delicate topic of grace measures [i.e. pardons], it is clear that the purpose of the PNV is to promote and encourage the definitive abandonment of arms by those who are inclined to take that step, through the promise of making their reintegration into civil life possible. You can agree or disagree with this peacemaking strategy. But it would be wise, in any case, to remember that a public man so little suspect of extremism or indiscretions such as Mr. Areilza, a representative of the parliamentary group led by

Mr. Fraga, has defended the necessity of negotiating with ETAm, which would logically include the adoption measures of grace. Dialogue is a path that no civilized Government can renounce, especially if from the dialogue the eradication of violence could be derived.

The no proposition of the law insists on "the development and deepening of the Statute of Autonomy" to achieve authentic institutions of self-governance. Indeed, the only way for the social and electoral bases of the terrorists to begin to weaken and break down is for the *Euskadi* Government to show its people that the path to autonomy is not a dead end, but rather a political and historical reality. And the murder of members of the Forces of Public Order will be more difficult when the Basque regional police force is put in charge of missions that today are assigned to the National Police or Civil Guard.

In any case, the reasonable doubts that could honestly be harbored on the sincerity of the PNV and of its Government in its search for a peaceful, constitutional and democratic end to the Basque conflict cannot be maintained in good faith after the virulent statement released yesterday by ETAm. The text viciously attacks the Basque Government – qualifying it as a "puppet government" – for its convictions of violence and its advice for citizens (following Mr. Alcorta's example of civic bravery) to resist the extortion and gangster blackmail, pompously madeup as "revolutionary taxes". For this the recent wave of killings could be the point of political desperation more than anything else. If it turns out to be this way, it would also be that we have started, perhaps without realizing it, the long and slow road to peace in *Euskadi*.

Reflections on Terrorism (*Reflexiones sobre terrorismo*) 15 April 1981

In the event that the Law for the Defense of the Constitution permits intellectual approximations to terrorist tactics and strategy, we will have to agree that the *mafia* gang that is ETA *militar* is proceeding to give their criminal response to the work of the so-called single anti-terrorism command in the Basque Country. It is already beginning to be difficult to extrapolate statistics of the long history of murders of ETAm, but one does not remember the vile *etarra* terror the commission of three murders of these features in a single day – and in the space of just a few hours – and two of them in the same province. Despite the added cowardice which is the fact that criminals choose as victims of their savagery retired bosses or ex-officials and industrials without protection, or any special significance, it is not unreasonable to see in this escalation of ETA – started a few days ago with other barbaric attacks against national police [officers] – a sinister *here we continue* directed at emphasizing the defense minister's tour, visiting the troops pledged by the Government to waterproofing the Basque-Navarre Pyrenees. The identification of the latest victims of ETAm should also be emphasized: military retirees voluntarily settled in *Euskadi* and murdered in a particularly cruel and repugnant form, it is as if there is a ranking of cruelty in the premeditated death of a man. The least warned could caution [against] the latest ETAm actions, a frontal assault on the psychological resistance of members of the Armed Forces. A new proof that ETA terrorism has decided to launch without mercy by the slope of the proponents of the coup d'état, against the liberties of the Spanish.

The possibility that *etarra* terrorism is creating ambient temperature for *Aberri Eguna* (next Sunday) stained with violence and clashes [should] also not be neglected.

But, and still recognizing the objective difficulty of the fight against political banditry, these facts seem to indicate, on the one hand, that it is not desirable to participate in the triumphalism with which its administration has initiated this conglomeration of unconnected competences called *single antiterrorism command*.

Yesterday, the happy release of the industrial Luis Suñer from Alcira (on whose circumstances the responsible law enforcement officers have laid a blanket of silence, but it seems they go through a high rescue) was so tarnished by these three immune crimes, that now it is obvious to condemn when words, in a repeated manner, lose the brightness and strength of their original coinage.

Almost daily it rains on the mammoth [sized] official relations officers of detained [terrorists] or of captured terrorist material; the public has been offered statistical tables which purport to demonstrate that in this or that period of time – always with special legislation and indiscriminate threats on the use of freedom – they have proceeded to carry out somewhat more successfully antiterrorist services than at the this same time last year. It has entered a worthy lexicography worthy of the dictatorship, in which seditious liberal newspapers call for the hunting of man as the tiger, thus equating their brilliant intellectual and journalistic trajectory to the same trajectory of inhumane violence, and have taken the step – just barely discussed – that the Governments of Franco never decided to take, not even when the Prime Minister was assassinated: to approximate the Armed Forces to the direct fight against terrorism.

Of course, no anti-terrorist operation of any kind could be able to prevent terror in a few weeks. But few are fully aware that behind the resounding front of a single command there are many loose twigs, poor technology, adequate diplomatic work,

previous reorganization of debilitated services, such as that of the Defense Intelligence, and above all, *a single [antiterrorism] command*. Recent statements from Commissioner Ballesteros recognizing that coordination between military, civil guards and police was made at the level of friends, move to such embarrassment that we are advised to be quiet in this moment. One has already been advised, from these and from many other pages, that Ballesteros was the reissue of his teacher, Commissioner Conesa, condemned as the first, as this one with the GRAPO, to the new Sisyphean torture to announce the dismantling, over and again, of ETA.

Therefore, if apart from the horror that the crimes arise we can draw some brief lessons of such infamy, these at least are crystal clear. The first and most important is that, as we already said, at the time of the murder of the engineer Ryan, that ETA: was pure villain, today one can now add that this villain is now not only in its fascist pseudo-intellectual origins, but has in their immediate objectives a coup d'état. The second is that the Government of Calvo Sotelo, abundant in gestures – and in gestures, we say without reluctance, interesting and courageous, but gestures in the end – has to start producing policies.

Forgiveness for Terrorists (*Perdón para terroristas*) 8 August 1982

The publication of the conversations of those responsible in the Ministry of the Interior with leaders of *Euskadiko Ezquerra* to implement measures of grace to a group of old ETA Political-Military militants in the VII Assembly has led to curled pronouncements from bodies of information and to some demonstrations from political leaders who do not waste not even the smallest occasion to cultivate emotions in citizens

before the next electoral confrontation. A football player, in a survey carried out by the newspaper *Ya*, condemned the issue as seeming to him as the Government dropping their pants. Without coming to this blunt opinion, other more qualified figures in Spanish political life hid in their opinions more visceral and unfocused reasoning like that of the Real Madrid player Juanito. The problems of social coexistence in the Basque Country are much older than the actual political regime of freedoms and their roots are largely sunk in the blink politics of the dictatorship, which, with its simplicity and lack of historical vision, was the most valuable ally in the blossoming of armed gangs. It is enough to remember, in this sense, that all of the action displayed in those years to seal the indestructible unity of the men and the lands of Spain resulted in blowing through the air the Prime Minister and the inheritance, to the parliamentary monarchy, from a terrorist group with solid social support.

In the parliamentary spectrum, the politicians who think that the terrorist problem in the Basque Country is a simple case of public order are few. Those who are defending on the front line and from within the security forces the fight against the activity of armed gangs have said so on numerous occasions. However, some ineffective politicians, that played important roles in the first moments of the transition and harvested resounding failures, are returning now, masquerading as the white hope of the Spanish right, to preach, with unrepentant stubbornness, that it is all a simple question of hard labor and, therefore, there is nothing better than a state of emergency at the time. God save us from these messiahs.

It is a bit repetitive to repeat that the fight against terrorism is not only an issue of police efficiency. The activity of armed gangs is unthinkable without the social support

that makes their movements possible. For that, all of the political and judicial measures that serve to isolate terrorist groups signify a qualified advance to enable a peaceful coexistence in the Basque Country.

In this sense, and with an analysis moved by dispassion, and not by hot emotions, in which we must place the Minister of the Interior's political initiative, from which it would be convenient to give some details. It is an evil, or at least, an interesting poison to state that the law is violated or that the State loses respectability when applying measures of this type. The action that will be followed will be applied by competent jurisdictional bodies and under the provisions of specific sections of the penal legislation. Therefore, there is not the smallest creepy shadow or hidden and shameful negotiation, like the lackeys of the criminal coup attempt to portray to the public opinion.

The measures that are going to be applied to members of ETA Political-Military who abandoned their activities for more than a year and a half, because they understood, after the failed coup d'état, that their actions were aimed at consolidating the dawn of times in Spain.

The first group of persons included in these measures are those that, not having any responsibility, are found in exile for reasonable fear of reprisals. The other two groups are composed of those still serving their long sentences, they could be, at the court's discretion, applied to the provisions of existing legislation on remission of the sentence or parole, and, in the last place, of those preventative prisoners to which they can apply more mild sentences until they have their respective trials. In any case, in all circumstances, those guilty of murder, illegal detentions, or of other [crimes] of significance and seriousness are excluded. Therefore, the assumptions made about those

to whom these so-called measures of grace will be applied do not seem as significant as to cause so much turmoil.

However, above or below the scrupulous respect that one has in the action of this law and the distribution of powers true to a system of rule of law, the Minister of the Interior's initiative constitutes a laudable and brave policy initiative. Terrorism has left our country with a sequel of frustrations and painful memories that will not be easily forgotten. But whatever attitude that put a definite end to the violence and facilitates coexistence under the rule of law can only be well received by those who love peace and progress. To nourish the confrontations inexorably leads to catalyze the tensions and reproduce violence.

There is, lastly, one equally important issue. The groups related to the coup d'état, that are unwavering in their efforts to drive our country to fratricidal confrontation, have started what will become an overwhelming campaign to apply similar measures of grace as well to the rebel participants in the 23 February attempt[ed] [coup d'état]. In principle, here fit some clarifications. In first place, the participants of those facts have never recognized their criminal authorship, and some have confirmed that they will attempt it again. Politically, therefore, it would be inconsistent to consolidate peace and coexistence of all citizens to kindly apply the penal law, if it has not already been applied with complete generosity, to those who are ready to impose by force – relying on their special status as members of the Armed Forces – their political viewpoints. It is, therefore, a quite different issue. And to establish a parallel does not appear encouraged by the sound criminal principle of social reinsertion and the policy of [criminal] offenders, but, rather, a ploy to confuse citizens and to hinder the governorship of the State. In any case, it

would not be convenient to forget that the decision of the Supreme Council of Military Justice recommended to the Government the commutation of sentences to Milans and Tejero's immediate inferior. The rebellion leaders renounced this benefit in an arrogant gesture.

The Crime of Rentería and ETA's Electoral Campaign (*El crimen de Rentería y la campaña electoral de ETA*) 15 September 1982

The general elections of this 28 October will allow the Basque people to decide, for the fifth time in four years, with the ballot box. After the general and municipal elections of 1979, the referendum that approved the Statute of Guernica and the election of the autonomous Parliament in March 1980, the designation of deputies and senators to the General Courts will be a new occasion for the citizens of the Basque Country to express, through universal suffrage, free and secret ballot, their preferences and opinions, the only way to ascertain the real social support of the [political] parties and their programs. Despite the undisputed importance of the vote obtained by *Herri Batasuna* in the general election of 1979, the fact is that only 149,685 citizens of Vizcaya, Guipuzcoa and Alava were delivered, on a census of eligible voters of 1,625,280 (9.20%) and 1,020,793 actual voters (14.66%), against peace, democracy and harmony. The enemies, of representative government have always theorized their aristocratic contempt toward the popular will through aberrant ideological constructs that reserve the monopoly of an alleged patriotic truth to a determined minority capable of imposing through arms its dictatorship. Despite this doctrinal arrogance, each adverse electoral consult puts these self-appointed messiahs in the awkward position of having to seek extravagant arguments

with the public opinion to justify their bloody loneliness. Determined to close the ballot boxes forever once they have conquered [their way] to power, they have to conform, in the meantime, to interfere, directly or indirectly, the celebration of elections and introduce factors of alteration in their normal development. While vanguards despise from their infatuated stupidity the votes as a source of political legitimacy, the restlessness that produces in their bases the sense of isolation moves them to boycott or distort the democratic elections to the extent that their efforts are permitted.

The sad comment regarding the ambush perpetrated Monday near Rentería, which claimed the lives of four national police, should be exhausted, from a purely human point of view, in the expression of horror at this new manifestation of barbarism. The persecution waged by terrorists to *top off* one of the injured policemen, that was being driven to a hospital, constitutes one of the horrifying feats of cruelty and sadism committed by these criminal gangs throughout their shady history. However, the murderers, to reap human lives, tactical objectives are also proposed, despite the repugnancy aroused by the instrumentalization of death in the service of other goals, it is necessary to analyze. ETA undertakes, so, their own electoral campaign, designed to induce – as a maximum program – the definite closure of the polls or to dramatize – as the resigned alternative, – a situation that would be even more adverse without the exasperation and fear terrorism breeds with its crimes. The overheating of the pre-electoral atmosphere by commissioning the action-repression spiral [of violence] in the Basque Country is but a desperate attempt to distort, to the advantage of radical nationalism and of the conservative opinions, the verdict of the ballot boxes.

The other clip of the pliers to crush the liberties of Basques and the rest of Spaniards has been the revival, at the beginning of the election campaign, of demonstrations in favor of the amnesty, aimed at coldly instrumentalizing the emotions of the prisoners' families and friends. Freedom of the accused or convicted is not the goal of these demonstrations, but rather the dirty expectation of getting – as in San Sebastian this past Sunday – new names for the martyrdom with the help of some exasperated and frightened Forces of Public Order who respond disproportionately or wrongfully to the provocations. The maneuver is even more nauseating since those same manipulators have slandered the leaders of the rogue *Euskadiko Ezkerra*, that advocate for the Ministers of Justice and of the Interior to revise the records and add an elevated number of former ETA Political-Military members committed to abandoning arms.

Never has it been more evident than now that the inmates are simple exchange rates for their seditious benefactors of the pro-amnesty advocates, human merchandise that has to always be behind bars with the end of serving an altruistic flag for mobilizations that strategically looks for other purposes. In the exclusively human terrain, the pain of the prisoners' family members is worth all respect, although, different than that of the families of those killed by ETA, who have the consolation of knowing that they are still alive and harbor the hope that someday they will hug them in freedom. However, only contempt are creditors those who politically trade with the feelings of solidarity and condemn to a second time the inmates to the horror of prison, by defending a strategy of violence that makes it unthinkable to negotiate any measures of grace and to consider as a betrayal the efforts in favor of those exiled and prosecuted within the framework of legality. Because nobody in their right mind could honestly ask for pardons

for those who, the day after leaving prison, were willing to commit murder as atrocious as those committed yesterday in Rentería. And only the disappearance of violence in the Basque Country would make a change to the situation of the prisoners imaginable. But this is well known by those who obscenely manipulate demonstrations in favor of the amnesty as one more piece of a strategy of provocation and death.

The Government and Constitutional Guarantees (*El Gobierno y las garantías constitucionales*) 9 April 1983

THE MINISTER of the Interior called a press conference yesterday to report the results obtained by the spectacular police operations carried out in Madrid in recent days. While these actions have not yet managed to locate the whereabouts of Diego Prado and his kidnappers, Jose Barrionuevo justified the usefulness of the raids started in the neighborhood of Pilar through data related to the partial disarticulation of an ETA unit that was preparing criminal attacks and that is organically linked with the terrorists who criminally hold the financier. In a measured tone, which is welcomed as showing a new political sensibility, the Minister of the Interior apologized to the public for any inconvenience caused by the deployment of the Security Forces, while the propaganda services of his department placed advertisements in the Press to thank the residents of Madrid for their collaboration in home registrations. Simultaneously, whole neighborhoods of the capital continued to be subjected yesterday to the rigorous *combing*, continuing the largest scale of police operations put into action since the establishment of the democratic system. In a previous editorial commentary (see EL PAIS of 7 March) we noted that although the eventual achievements of the spectacular raid could make up for

many (under the *moral of success*) of the irregularities ordered by the Ministry of the Interior, no victory could justify – ethically, politically and legally – the violation of a constitutional guarantee as important as the inviolability of the home. The Minister of the Interior, convinced that his glance at the Constitution is the correct one, has invited those who have criticized him to carefully read Article 18.2 of the Constitution, which states that "the home is inviolable" and that "no entry or registration may be made without the consent of the owner or a court order, except in cases of flagrant crime". Although the willingness of Jose Barrionuevo as a hermeneutic should not be doubted, it is compulsory to return the advice to him and ask him to analyze that paragraph in greater detail and with better legal consultancy.

The official media emphasize the voluntary nature of the authorizations given by citizens for the public order patrols to register their dwellings. It is surprising, in this respect, the efficiency with which the mechanisms of forgetting operate as a function of the changes of position produced by upward mobility and the occupation of political power. Because those socialists who lived in secrecy until a few years ago, should at least consider as a problem the investigation of the real reasons that might prompt a citizen to grant such permission. Given that any human act is always motivated in multiple ways, it seems to be an excessive simplification to highlight the excitement and to reject fear in *all* of the cases in which "consent of the owner" of an address was produced for the entry and registry by police, without a warrant. The Minister of the Interior, instead of rejoicing exclusively for the ease received for the address registrations, perhaps should also worry about the automatic behavior of those who, with the fresh memory of the days in which they were simply subjected [to the registrations], have not gotten used to fully assuming

their condition as citizens, which involves the exercise of each and every one of the fundamental rights and freedoms guaranteed by the Constitution of 1978.

Playing to those of the past and those of the future, one could imagine the reaction of the socialists, turned into the opposition, in the case that an operation such as that carried out this week in Madrid were to be endorsed by a Government of UCD (in the past) or Manuel Fraga (in the future). Probably senior socialists and a good part of its voters would argue that the ownership of power, today occupied by the left, completely *changes* the nature of state actions and magically changes their meaning. It would result, therefore, that the only important thing is to know *who* governs, so that the assessment of the *decisions* of power should not be carried out in function of its concrete content but of its ideological origins. Unfortunately, not only history has been responsible for denying such arrogant presumptions (it is enough to cite the liquidation of the SFIO, that is, the French Socialists, as a result of their behavior during the Algerian war), but the absolution of the errors by the alleged sacramental efficiency of some centuries is a thesis that would be difficultly maintained by those who have formally settled to the foundations of their political conduct and have rejected the specious independence of the *means* with respect to the *ends*.

Regardless of the eventual lack of consent produced by intimidation and the memory of other times, the exceptions – few or many, one would be enough – to the voluntary acceptance of the address registry are sufficient – to raise in its integrity respect for the constitutional guarantee of the inviolability of the home. The issues of principle, as badly as they weigh on the defenders of State reasoning, do not allow [for] quantitative discounts. Moreover, the Minister of the Interior showed, with their initial hesitations

when it came time to justify the home raids, a legal uncertainty which could be interpreted as a symptom of a deeper bad conscience. At first, the authorities spoke indistinctly of injunctions to house searches, consistent with Article 18.2 of the Constitution, and of the application of the Antiterrorism Law of 1 December 1980, that authorizes the raids of dwellings without previous judicial resolution in exceptional circumstances. Yesterday, however, once the news that the duty judge of Madrid had not been requested by the police to issue search warrants [was] made public, the Minister of the Interior has gone out of his anxieties and has justified the raids exclusively through the application of the Antiterrorism Law.

This legal retreat is, however, a worrying manifestation that the heights of power can dizzy those who occupy the positions until the point that they temporarily forget their own past and jeopardize their credibility. The Antiterrorism Law, enacted in the ambit of Article 55 of the Constitution but situated – in the opinion of leading experts – outside the framework of our legality, suspends, effectively, the right to inviolability of the home and does not support any registration without supplied judicial consent or resolution. In this way, the members of the State Security Forces and Bodies may proceed under this rule without prior judicial authorization, to raid and search homes. But it occurs that an *exceptional* law cannot be interpreted in the rule of law and a democratic system; in an abusive form with analogous criteria. The suspension of the constitutional guarantees *strictly* affects the persons "suspected of being integrated or relating well with terrorist elements, along with armed gangs". The application of the antiterrorism legislation to defeat the resistances of a simple citizen to police bursting in into their home without a warrant is a legal and political aberration. And the suspension of constitutional rights of

the thousands of residents of the Madrid neighborhoods *combed through* by the police is an indignant abuse of power from a government that massively and cleanly won the elections, under the defense of freedoms. Let us point out, finally, that the Minister of the Interior is *obliged* by the antiterrorist law to report in these cases to the Central Court of the *Audiencia Nacional* the records made, the reasons that motivated them and the results obtained. Let us hope that this communication is done quickly.

Only bad faith or recklessness could lead to confuse the necessary *collaboration* of society in the fight against terrorism, defended always in the pages of *El País*, with the use of dubious constitutional mechanisms and unpleasant authoritarians to extract through psychological intimidation or the violation of fundamental rights an *appearance* of civic voluntarism in this task. It is always difficult to balance the dialectic between public security and civil liberties. However, apart from the short-term euphoria produced by short-term efficacy of the measures of force, it is evident that a democratic system must rest, whatever the ideology expressed in its parliamentary majority, on the principles of freedom and has to exclude any possibility that the Executive Power – hypnotized by the rhetoric slogan of a Government that governs – makes their daily practice indistinguishable from that of any authoritarian regime.

Terrorism, Before Congress (*El Terrorismo, ante el Congreso*) 3 November 1983

TODAY Congress will know the government's plans to improve the effectiveness of actions taken against terrorist groups. The tense moments and the emotions unleashed by the monstrous murder of Captain Alberto Martín are the beginning of the call for this plenary. However, ETA has not wavered in their harassment since the inauguration of

Felipe González. The long and painful list of attacks and murders during this period is testimony to this fact. It is possible that the socialist Government believed at the beginning of their mandate that the gates of terrorist hell could not prevail against the new majority. Perhaps that initial trust made them lower their guard or underestimate the dangers in the first moments. It can be speculated, thus, about omissions in the field of diplomatic pressure and errors in the reorganization of the intelligence services and police. The weak hopes for a *truce* from the different terrorist branches showed their illusory character to failure, partly due to PSOE's own fault, the Garaikoetxea initiative of convening a *peace talk*.

The information available gives reason to suspect that the Government has given up adopting some antiterrorist measures that would in the short-term only have propaganda effects, and that in the medium and long term would be counterproductive. Heated suggestions to declare a state of emergency, to claim military intervention or to extend for no less than up to 20 days the period of preventative detention before having to go before a judge for those suspected of being members of armed gangs have been on the Government's table. Also the expressed criminalization of *Herri Batasuna* and of the parties that form the coalition, currently located in a limbo of lawlessness, criminalization that would only lead to greater tension in the social body of the Basque Country. Finally, the *dirty war* – some of whose methods the Government seems to be using – is an action forbidden to anyone who believes in the political and ethical superiority of democratic systems and who is committed to the defense of their values. But, moreover, the experience also indicates that institutional terrorism – sufficient with the example of Argentina – would not only discount those who practice the same miserable moral

condition of the armed gangs, but would also condemn them to [what is] surely political bankruptcy.

In any case, the news that arrives – and that we hope will be confirmed today – that the Government has wisely decided to give up the revenue of a spectacular but useless dramatization in the antiterrorism fight does not mean that the pressures to require confirming visible gestures – effective or not – in their obvious intention to obstruct the armed gangs can completely resisted. It appears that the devised measures that Parliament will debate today will be judicial, penal, procedural and criminal. In the judicial sphere the exceptions to the general principle of territoriality of the penal law would be extended, with the aim to prosecute the extortions and actions of terrorists abroad, and would deal with trying to change extradition practices with other countries. In the penitentiary terrain, the precautions adopted to guarantee the safety of officials could indirectly punish the families of prisoners and call into question the principles of penitentiary reform. In the litigation field, the measures to apply the maximum period of preventative prison do not need, in our view, any modification of the laws. In the penal sphere, equipping the military with authority in case of attack would permit the use of a type of aggravated penalty that is used when the victims are members of the Forces of Public Order. The insults to the flag committed by public officials would be more severely sanctioned. The reality is that, ultimately, the government finds itself with the fact that there exist laws that are more than powerful – and some that are even doubtfully constitutional for the fight against terrorism, and it is not about modifying them if it is not to quell the hydra coup or popular tribulation from the increase of terrorism. But it would be a dangerous error if the Government were to follow the slope of panic on this issue.

This incline is insinuated in the decision to more rigorously pursue, and under the expectation of more severe punishment, the so-called crime of advocating terrorism. Once again it is necessary to point out that the indetermination and vagueness of such offense violated, in our view, the constitutional principles of legality and legal security. The Penal Code had always considered the condoning of crime – as it is defined in Article 566 – as a simple failure. Elevating it to a substantive offense of "public condoning" of the conducts or activities of people "integrated into organized and armed groups or bands and their associates" vainly tries to contain within the limits of penal law legal-political phenomena that are difficult to define, and for whose denunciation the prosecution has no fixed or firm criteria. Moreover, the experience of the so-called Law for the Defense of Democracy teaches that it is not these types of threats that will manage to defeat terrorism, but those that agitate its waters. The Government is not obligated to offer miracles in its fight against ETA, but it is, instead, obliged to not make mistakes in their repressive response. We expect and hope that this is the spirit that will appear today before the Courts.

Again Terrorism (*Otra vez el terrorismo*) 21 November 1984

The terrorist murder of Santiago Brouard, leader of *Herri Batasuna*, in Bilbao is a new and disgusting attack against democratic coexistence in this country. The specific circumstances surrounding [the murder] – the doctor was viciously attacked while giving a consult – help highlight the moral misery of the murderers. There has been a new victim of this bloody intolerance that threatens to destroy the roots of coexistence in

Euskadi. President of the Revolutionary Socialist People's Party (HASI), elected member to the Basque Parliament, and deputy mayor of the Bilbao City Council during the previous term, Santiago Brouard, *Santi*, was a pediatrician and a highly esteemed person for his personal kindness and his professional work. He met the criteria for a leader, and since many times these columns have disagreed even bitterly with his approaches and beliefs, it is necessary today to highlight the despicable act which ended his life, the human and political aberration that was committed once again by the sowers of violence. It is too early to analyze the explanation of the murder. The fact that the crime was committed on 20 November carries ominous and disturbing connotations the coincidence between that date and the death of the dictator Franco. The possibility that the responsibility [for the attack] corresponds to the Anti-Terrorist Liberation Groups (GAL), so far settled on French soil for the operation of their bloody business, will more dramatically plant serious questions in public opinion – not yet convincingly clarified by the Government – about the origin, financing, supplying, and address of that criminal gang. The possibility that, as in the fable of the sorcerer's apprentice, the hired murderers of the GAL were able to escape control by their employers and act as a loose wheel in this awful drama should not be ruled out.

In any case we should ask who benefits from this attack. Indeed, not democracy and peace. It will be necessary to exude prudence, imagination, and political know-how so that this murder does not lead to the paroxysm of a spiral of violence in *Euskadi*. Even with all the differences that exist between conflict zones, the specter of Ulster, understood as a violent confrontation in the heart of a civil society divided by ideological hatred and sectarian misunderstanding, it should disturb and frighten all who sense that

the future of democracy and freedom in Spain is inseparable from the future of the Basque Country. At the present time, the institutions of the autonomous region are almost paralyzed by the internal divisions of the Basque Nationalist Party and by the attempts of other political forces to utilize these conflicts to their advantage. Yesterday's attack impacts, moreover, the negotiating process started last summer by the Madrid Government aimed at pacifying the Basque Country, to achieve social reintegration of not a few ex-militants of ETA and give a political exit and not only police [exit] to the conflict. Now no one doubts that everything will be more difficult. But perhaps those who defend, [from] deep within and even in their statements, the existence of a terrorism *of response*, a type of *good*, *anti-etarra* terrorism, against the other *bad*, *etarra* terrorism will learn a lesson. The facts demonstrate that outside the action of the law and strict respect for democratic norms there is no free solution to the Basque problem. The murderers of Brouard are not better than those of the socialist senator Enrique Casas, or the latter than the former. But the extension of political criminality can ruin in a few days the hopes of peace opened recently. The Basque and Madrid Governments need to give a response to this urgent call from the citizens: security in democracy. And arrest and punishment of all terrorists.

Terrorism and Security (*El terrorismo y la seguridad*) 28 April 1985

Two weeks after the tragedy that occurred in *El Descanso*, that cost the lives of 18 clients of the popular Madrid restaurant, the scrupulous silence or complete ignorance of the Minister of the Interior has stolen from the public opinion this basic information about the brutal attack to which the citizens of a democratic system have the right and

that justify the rational confidence of society in the competence and efficacy of their police services. Although definitive and reliable evidence demonstrates that the vindication made in Beirut by an Islamic terrorist organization was authentic, [it] would still [be necessary to] reconstruct the path taken by this criminal enterprise from Lebanon to the heart of Spanish territory. That criminal orders were originally given beyond our borders constitutes a marginal fact in investigating the infrastructure, the composition and contacts in our land of a foreign band able to select [as] a target a restaurant frequented by North American nationals, install an explosive charge in the building, erase their tracks and find safe refuge in a strange urban environment. The coldness and distance shown by the official media toward the victims of this attack – buried without the presence of some usual personalities of this type of funeral – perhaps rests on the unjust judgment that it is not the same an indiscriminate killing of modest persons perpetrated by a foreign band as the targeted killing of uniformed men, political leaders or social leaders executed by a Spanish organization. If this were the explanation, one would have to doubt not only the sensibility of the Government and of its strange conception of public safety, but also of their capacity to understand the scale and implications of international terrorism. Because the incorporation of Spanish territory into the field of operations where the secret services of the great powers and of their allies, free their destabilizing wars is news as much or more serious than the persistence of terrorist groups with known identity. That kind of unacknowledged official relief that underlies the hypothesis of foreign authorship in the *El Descanso* attack is particularly puzzling if one recalls President Reagan's impending trip to Madrid.

Along with the disturbing emergence of the terrorist outbreak materialized in the *El Descanso* tragedy, the statement made public on Friday by ETA *militar* (see EL PAIS of 26 April) adds another concern to public safety. ETA *militar* threatens Spanish and foreign tourists with a "campaign of sabotage" in the Mediterranean zone, to the style of that developed by ETA *Político-militar* in the summers of 1979 and 1980. Still without excessive confidence in the efficacy of the quotes, we will remind that five years ago *Herri Batasuna* considered the *polimilis*' [members of ETA *Político-militar*] anti-tourism campaign "counterrevolutionary" "crazy" and "harmful" accused of "confusing the struggle of the Basque people and undermining the necessary solidarity between the workers of the distinct peoples of Spain".

If the new direction taken by ETA *Militar* is confirmed it might be inferred that the strengthening of the measures adopted by French authorities in the former *sanctuary* of the armed groups has obliged the terrorist organization to cross the border and extend their area of operation – so far basically limited to the Basque Country and Madrid – to the rest of Spain. French cooperation was a condition so that Spanish democracy could deal with the terrorist challenge. Also compromise of the Basque Government and the Basque Nationalist Party with the antiterrorism fight constitutes an indispensable requirement for its success. The legislative pact between Basque nationalists and socialists and the energetic pronouncements from the *lendakari* Ardanza have satisfied this requirement. Finally, the police authorities have always claimed, with more than debatable arguments, Udder hands to arrest suspects, register homes, intervene communications and question for 10 days those detained. The present Government's Antiterrorism Law strengthens and extends the exceptional legislation, with the end to

give the police the requested facilities. The pretexts have ended: the Minister of the Interior already has all the cards in his hand and the success of the fight against ETA depends on his efficacy and capacity.

The *Ertzantza*, on the Front Line (*La Ertzantza, en primera línea*) 3 November 1986

Genaro García de Andoáin, head of the Basque autonomous police was shot dead yesterday by an ETA unit in the operation which rescued the industrial Lucio Aguinagalde, is the first representative of the *Ertzantza* to fall in a battle against the terrorist organization. In the operation that freed Aguinagalde from the kidnapping other State antiterrorist entities were not involved, and apparently were not informed of the arrangements put in place for the Basque police. This is not the first time the *Ertzantza* collaborated in some way in the fight against terrorism and this is not the first *ertzaina* killed by ETA. The Basque terrorist organization took responsibility for the murder, on 7 March 1985, of the superintendent of the regional police force, Lieutenant Colonel Carlos Díaz Arcocha. The assassination coincided with the beginning of the *Ertzantza* anti-terrorist activity, to which ETA responded with the brutality that has traditionally been common.

In all, the special meaning of yesterday's action escapes no one. García de Andoáin was a man of confidence of the adviser to the Interior of the Basque Government, Luis María Retolaza, a personality of great importance in the Basque Nationalist Party. Lucio Aguinagalde, industrial, 69, is the oldest militant of the PNV in Vitoria and had accepted, a week before the kidnapping, a position of responsibility in the municipal court of the party. Thus, both the kidnapping and its resolution have been an

open challenge from ETA to PNV. The president of the party, Xabier Arzalluz, said in the Bilbao Press: "The kidnapping of Lucio Aguinagalde is a direct confrontation from ETA against the PNV. We are doing things to even find him, which are difficult and dangerous". Reality has confirmed Arzalluz's suspicion. The response of PNV to the challenge of ETA highlights the will of the ruling party in *Euskadi* to confront terrorism as much in the political as in the police front. A significant fact, without a doubt, when the discussion of who has the responsibility of the antiterrorism fight remains in the Basque Country.

In that debate, in which there are no shortages of confusing profiles, it should not be forgotten that ETA is the common enemy of the democratic forces that defend the Statute of Guernica and peaceful coexistence in *Euskadi*. Terrorists extort or kidnap without distinction. For the Basque terrorist organization, the enemy is defined as anyone who disagrees with their violent approaches.

The responsibility to end the climate of violence in Euskadi belongs, by the same, to everyone. ETA similarly kills citizens who cross the lights when they decide to end the family of a militant as the civil guards or the children playing in the street.

The terrorist challenge requires practical cooperation of all democrats and all public institutions. The PNV finds itself in these moments in an unsurpassable position to ensure proper implementation of that solidarity. And the assumption by the Basque police of the antiterrorism fight, in all its dimensions and with all its consequences, is first-rate news that inspires all kinds of hopes.

The Fall Assessment (*Pulso de otoño*) 16 October 1987

SPANIARDS are not necessarily happier, but contemplate the evolution of the political situation, and especially of the economic situation, with increasing optimism, per a poll corresponding to this fall by the company *Demoscopia* for *El País*. The favorable indicators of the economic situation released in the past months – decrease in inflation, increased investment and production – have permeated into the consciousness of the people, who envision the future with greater confidence. The percentage of those who consider the general economic situation to be bad or very bad decreases from 44% in June to 32% at the end of September, while increasing by 30% the number of citizens who have a positive evaluation. This occurs despite [the fact that] the opinion of personal household economic [situation] hardly changed, while noting some improvement in the estimate. The survey shows a clear parallel between the evolution of the assessment of the economic situation and that of the political. The number of pessimists descends by seven points, while those who consider the current political situation to be very good increases by five points with respect to the survey from the beginning of the summer. That assessment barely has a reflection on the voting intentions of Spaniards. The slow decrease of the PSOE continues parallel to the *Alianza Popular* [Popular Alliance], as has been happening practically since 1982, so that, as a whole, the electoral map is barely modified. With everything, the tendency toward greater pluralism highlighted in the local elections of last 10 June is maintained.

Suarez's CDS continues to get results inferior to those of his leader in the popularity ranking of politicians. Fraga continues surpassing, by a narrow margin, Hernandez Mancha, and Felipe Gonzalez remains the most popular politician. As a

particular case, in the Basque region a great permeability is observed between the voters of the two forces that divided the PNV last year, expressed also in the appreciation of each electoral group to the leader of the rival sector: not only is Garaikoetxea esteemed more by those who vote Ardanza, something that was already known, but the voters of the leader of *Eusko Alkartasuna* also show a clear respect for the current *lehendakari*.

The survey, held a week before the arrest in France of the ETA leader Santiago Arrospe, does not permit assessing the effect that in the perception of the problem of terrorism they could have produced developments as a consequence of this arrest. At the end of September, a relative majority (42%) of those polled considered that the ETA problem was worse than few years ago, and only 10% felt that that it was getting better. The pessimism from young people with respect [to this] is significant: 23% of those under age 21 do not see any solution to the problem of terrorism on the horizon. A few days after the Prime Minister recognized that he had maintained contacts with ETA, 51% of Spaniards positively valued that attitude, but it was very high, 32%, the number of those who spoke against any type of contact with the terrorists.

Like every quarter, the survey includes a series of seven questions designed to highlight the evolution of what the pollsters call the *vital tone* of the Spanish: level of self-satisfaction with their own work, euphoria or depression, hope for the future, etc. The results reveal a slow shift toward greater lethargy, fundamentally determined by the relative absence of stimuli. Whether this is compatible with a more optimistic assessment regarding the evolution of political and economic situations could perhaps be interpreted as a sign of maturity of Spanish society. Today, the excessive euphoria and the

disproportionate disappointments of the transition gone, people have learned to separate the private sphere from the public plane.

The Law and the Bomb (*La ley y la bomba*) 24 May 1988

“IT WAS ALL legal”, is the terse reply from the Minister of the Interior about the armed assault that a family and a local Leganés (Madrid) politician suffered in the early hours yesterday from the Special Operating Groups (GEO). With that which they sanctioned the legality of police and political incompetence. All counterterrorism action involves the risk of negative consequences for its innocent witnesses. But from there to any mischief that Fraga calls "burdens of citizenship" is a very big stretch. The concept that in the fight against terrorism anything goes and that it is unfortunate but inevitable that some spectator ends up badly harmed is a fallacy imposed by what is considered expedient in the fight against this modern plague.

The citizenry must not carry more burdens than those covered by law; the rest are illegal, regardless of who implements them and regardless of their justification. And it is necessary to know what specific legal norm protected the barbarity of the GEO, that is to say, what has permitted them to violate the [right of the] inviolability of the home provided in the Constitution. It is only possible, twisting the argument, to find remote support in the sixteenth article of the aberrant antiterrorism law, which permits security forces and bodies to detain alleged terrorists without previous judicial authorization – which obviously is not case. One must ask, this article automatically converts Spaniards into suspects in the eyes of the Government and extends a blank check to law enforcement. In that case, the proven ineffectiveness of the antiterrorist law –

unconstitutional for many reasons – to fight terrorism alone, will be comparable to its utility patent to terrorize the population.

Regarding kidnapping, the Government of Felipe Gonzalez has tested everything, from the paramilitary occupation of entire neighborhoods up to the GEO smashing through the doors of the house of Leganés. The *Nani* disappeared for the sake of the fight against terrorism, and the police officer Amedo is involved in serious criminal charges for his alleged involvement in the GAL case (antiterrorism terrorism, as the socialist Government likes to dictate). Many times we have had the opportunity to point out that along with the destruction and damage directly caused by the criminal barbarity of ETA the moral damages in the social body, the discredit of the democracy and its methods, the perversion of authority or the leniency regarding the violation of the basic values of the rule of law should be accounted for. The inadmissible and cruel torture to which the Revilla industry is being subjected to by ETA gangsters cannot be a pretext or a reason for the State apparatus to lose its nerves. The maxim that against terrorism anything goes is indignant of any democratic sensibility, but is moreover, and as can be verified, stupid.

[Very] recently, Felipe Gonzalez acknowledged the wear of his Minister of Education. When will it be recognized that it is inhumane to keep in the position of the Interior a man so inept and politically mediocre such as that who occupies the office? How many blunders, abuses, excesses, arrogances, should this team of foolish administrators of the public order commit before we Spaniards finally receive the grace of his dismissal?

The Last of ETA (*La horma de ETA*) 19 September 1989

The dismantling of the Araba command of ETA – to which 39 murders in the last years are attributed – the arrest of practically all of its collaborators and the seizure of an abundant arsenal of arms and other materials that would serve to carry out and to camouflage their criminal acts constitutes an inappreciable and valuable police success. But, moreover, the dismantling of this dangerous firing squad and of their accomplices is a very timely blow to the terrorist organization, in a period of resurgence of criminal activity after the talks in Algiers broke down. Since ETA unilaterally considered that the informal contacts that it maintained with emissaries of the Spanish government in the Algerian capital did not meet their claims, their murderous arm has claimed at least a dozen lives in just six months, the latest of which is that of National Court prosecutor Carmen Tagle. Operations such as that culminated by the *Guardia Civil* with the dismantling of the *Araba command* show that the democratic State has the capacity and legal means to deal with the challenge of terrorists so that their criminal activity does not go unpunished.

Although, in principle, the official version of events seems plausible, the Director General of the *Guardia Civil*, Luis Roldán, does not do a good service to the required transparency in a democratic society when he refuses to give "too many details" to "avoid controversy" about its outcome: two terrorists killed and three civil guards wounded to varying degrees. In any case, the details of the operation, publically denied at this time, cannot be hidden from a judicial inquiry, which shall ultimately rule on the legality of the police action. In the rule of law, no violent death – not even those produced by the

security forces in the legitimate struggle against terrorism – falls outside the margin of clarification by an independent and impartial body such as the judiciary.

The speed with which Herri Batasuna and pro-amnesty solicitors have condemned the police action, which they have qualified as an "ambush", is all a sample of the crude hypocrisy that often leads those who walk around the world asking the dead for their identity and political affiliation to decide what use will be made of them. Always willing to praise the dead terrorists and analysts punctilious on the circumstances of their death in light of a democratic legality that they fight with fury as *heroes*, they do not blink when the dead are *others*. Fortunately, the immense majority of the Basque society discovered long ago the imposture of these executioners.

Death Instinct (*Pulsión de muerte*) 7 September 1990

The hypothesis that it was members of the First of October Antifascist Resistance Groups (GRAPO) that placed the three bombs that exploded yesterday in two official buildings of Madrid is perfectly plausible. Known only by the cruelty of their actions, but not for other types of causes that could possibly evoke to justify them, this group of desperate [persons] only moves, like their ETA counterparts, as the Bishop of Bilbao just described as, citing Paul Ricoeur, an extreme "death instinct". Kill and destroy, that is their concise program. To apply it you do not need any special qualities. It is neither necessary to be smart nor is it indispensable to be brave. It is enough to be unscrupulous and close your eyes to the effects caused. To place a bomb in a public place like the Madrid Stock Exchange is to blindly bet on an indeterminate number of random victims. To do it in the Constitutional Court's headquarters or the office of a ministry is to seek

victims at random between anonymous officials. Therein lay the motive of those who have been won over by this death instinct that dominates the soul of the terrorist. In which, its action being arbitrary and indiscriminate, no one can feel safe. Their desire for omnipotence is done when they know that we all fear.

The hypothesis of the responsibility of the GRAPO is also weight[ed] [given] the artisanal– but no less deadly – character of the artifacts, such as, above all in the case of the Constitutional Court, the barely sophisticated system used to place them. But that itself highlights the resounding failure and fragility of the existing security systems in the affected centers.

Spain is one of the European countries most punished by terrorism, and the security measures must be proportionate to the risk. It is true that killing and destroying is always too easy, and that, as experts have repeatedly reiterated, no security plan can eliminate one hundred percent risk of terrorist action: if in a given place the security measures were almost insurmountable, the terrorists would look for other less protected targets. And then the editor in charge of communications would be responsible for explaining that the new target *symbolically* represented that which was abandoned for being inaccessible. All this is true, but from it no good conscience should be derived. Precisely because in the fight against terrorism the symbolic battle is decisive, the democratic State has to step up its effort to avoid any image of vulnerability. At least so that it does not give the impression that the terrorists have not had to struggle too much to cause the destruction to which they aspired.

Many things are felt, from indignation to bewilderment, about the recent decision from the Criminal Division of the National Court to absolve three ETA collaborators, nevertheless recognizing their criminal conduct. The exculpation of those who developed and partially executed a plan to get the *etarra* Ignacio de Juana Chaos to escape from the *Herrera de la Mancha* jail, sentenced for various attacks, among others that which caused the death of five Civil Guard members in Juan Bravo de Madrid Street in 1985, has prompted the prosecutorial board of said tribunal to show their indignation. For their part, the State security forces have expressed their discouragement, and from the broadest areas of society it is not difficult to feel perplexed about the judicial statement. This varied range of sentiments is not only due to the absolution itself but rather that it is a product of a mechanical application to the case of a series of legal principles and guarantees that have led, definitely, to the impunity of behaviors that the court itself describes in its conviction as materially criminal. The principle argument of the tribunal is that such conducts do not constitute the crime of collaboration with armed bands, as intended by the prosecutor, but rather the attempted escape of prisoners. The perpetrators are consequently absolved of the first crime, but they cannot be sentenced for the second for lack of indictment.

It is incomprehensible, however, that the tribunal waited for the sentencing to present their criteria regarding the classification of the facts and did not warn the ministry publically of its possible error in the oral hearing, when it was still possible to remedy it. It is also incomprehensible that this same tribunal was able to keep for almost two years in temporary detention those accused of a crime that was later considered unfounded.

The justice is usually represented as a blindfolded woman. But that is not to say that it must act blind in the process, in a bureaucratic manner. On the contrary, their obligatory blindness to the outside world to the process is a condition for better clairvoyance against what occurs in its interior. When this is not what happens situations really Kafkaesque can occur, such as that in which collaborators of a terrorist organization that seek the destruction of the rule of law unduly benefit from its guarantees. Guarantees that, obviously, apply to all, including terrorists, but taking care that its imprecise legal formation or the malpractice and the routine [manner of] its application does not serve the purposes of those who do not believe in them and who viciously fight the institutions that guarantee them.

It is true that the justice system has mechanisms to redress its own wrongdoings. In the case that motivates this commentary, the Supreme Court, to which the prosecution has appealed, can still prevent the law from being definitely circumvented. But it will be difficult that, in that case, their decision has any other value than that strictly moral. It is not probable that the justice [system will] get back in their hands those who achieved to circumvent it, taking advantage of the methods in which, on occasion, are given.

Meanwhile it is not strange that the situation created garners indignation or discouragement. It is worth specifying, however, that the State officials should not, in any case, condition their acts on the success or failure of other officials. Discouragement, which can be comprehensible in this case, cannot be a determinant factor for those who have essential responsibilities in the rule of law.

Fascism and Reason (*Fascismo y razón*) 24 March 1992

THOSE WHO CHOOSE democratic coexistence as the best known system of political and social organization – that is, the immense majority of Spaniards – know that, against the murder and extortion of the ETA Mafia, the most sensible thing is to trust in the institutions of the rule of law: the justice and the police. In these days there have been two consistent and commendable facts: the Supreme Court upheld the sentences of 108 years imprisonment for those who turn away from democratic legitimacy to combat terrorism (the GAL *case*) and the Ministry of Interior scored a success by arresting in Tarragona an alleged member of ETA, the discovery of two safe houses of the group and a van. That is the right way for those of us who believe in democracy. The murder of a young man of 26 years yesterday in Madrid is the way of those who only accept the dialectic of guns: fascist totalitarianism.

Against those who choose death as a way of life, only constancy of political reason and the legitimate defense mechanisms of the same are possible.

When the Medium is the Message (*Cuando el medio es el mensaje*) 3 December 1993

That *Herri Batasuna* and ETA are two bodies with the same head is not a suspicion, but something so evident, at least, as that the *Egin* newspaper is the organ of expression of those bodies and their corresponding soul. That, as a function of it, there is someone who considers [it] convenient or even morally justified that said newspaper stop publication does not make any lawful administrative measure aimed at closing it. But the invocation of the freedom of expression also is not enough to make any act of that or any other newspaper lawful. Between the arbitrariness of power and naked impunity there is a

third possibility, the one appropriate with the rule of law: the judicial investigation of facts from which evidence of criminal behavior can be derived. It is to say, the application of the law. It is what Judge Bueren has done regarding the documentation submitted by the French authorities and that was found in the possession of Carlos Almorza, allegedly responsible for the ETA extortion network, detained in said country a few months ago. That documentation reveals that reports about companies and individuals that had been commissioned by *Egin* to a private company were in the hands of the terrorists.

Given the long dedication of ETA to the task of extorting businessmen, it is not unreasonable to assume that someone from *Egin* would have passed these reports to the terrorists with the end to make it easier for them to obtain funds for these proceedings. In any case, it was something that deserved to be investigated. The entrance of the *Ertzaintza*, by court order, in the *Egin* newsrooms in Bilbao and Hernani to search for any evidence that could confirm such evidence was, therefore, justified.

As the Basque Interior Minister, Juan Maria Atutxa, revealed yesterday regarding the material seized in those newsrooms, it is already known that among the businessmen that *Egin* sought information include, in addition to some from the Gohierri district that were subjected to extortion, others related to the works of the Leizarán highway that were once victims of ETA attacks. This extends the field of investigation: it should be ascertained whether the information utilized by the terrorists to select their victims and to prepare the attacks had its origin in the cited newspaper. The investigation should clarify in that case which person or persons sent such reports to the terrorists. It is about, in any case, the responsibility of individual persons.

Linking this investigation with the "campaign of harassment", as the director of *Egin* has done, is, therefore, misplaced. Different from the *etarra* world, in which the rifle commands and in which the terrorists are attributed to the legislative power; judicial and executive – in the double sense of the word – in a democratic society the judges are independent of the other powers and apply preexisting norms and regulated proceedings. The evidence obliges the judge to intervene.

The Penal Code does not provide for the possibility of closing a newspaper, although it does [provide for] the seizure of the printing press, in certain cases related to crimes of terrorism. In the analyzed case, such a possibility seems unrealistic, given that the crimes under investigation have been committed, where applicable, by individuals and not by the paper as such.

But beyond this particular case, and given that the issue has been raised, one questions if whether the right to freedom of expression protected by the Constitution and now invoked by *Egin* covers anything that appears on their pages. The answer is no. Right from the start, the freedom of speech to criticize and that to incite murder are not the same. It is one thing to express ideas, however abhorrent they could be for the majority of the population, and another to utter credible threats.

When, after the arrest of ETA's network of extortionists dismantled by the *Ertzaintza* at the beginning of 1992, a spokesman for *Herri Batasuna* accused the judge that intervened in the case of "acting like a super cop", he warned that HB "took good note of their actions" and he threatened him to "act accordingly", he was doing something that absolutely could be considered protected by the Constitution. If the

transmission of such threats by the *Egin* newspaper constitutes a crime or not is something that the judges will have to determine.

Reinsertion (*Reinserción*) 22 July 1994

IF THERE is a field in which all parties should avoid conflict it is that of the counterterrorism fight. And if there has been in the democratic Spain a successful operation in this field it has been precisely the collaboration – the solidarity – of the parties in what became known as the *Ajuria Enea* table. The terrorists in our country are increasingly less and less, increasingly isolated, and many of them, in prisons, are sorry for having been, or at least determined not to return to be one. For that it would be an unpardonable insanity if the Government and the opposition were to get involved now in public disputes about the antiterrorism strategy. It would only benefit those who wish to continue killing and those that applaud them. Terrorism has lost the battle in *Euskadi* and in all of Spain, and what is now needed is for all of those who have been its activists or supporters realize it. Conflicts between democrats in this terrain only grant balls of oxygen to those who deny this reality.

The Popular Party has every right to criticize when it wishes specific aspects of the Government's counterterrorism policy. That from within it there is a strong resistance to the reinsertion policy is logical. It is also there in other [political] parties. The sense of justice that all citizens rebel to some degree before what is undoubtedly a State pardon toward a delinquent responsible for heinous crimes in some cases. But political wisdom sometimes requires generosity, not so much for the good of the jailed delinquent, but for that of society and all of the potential victims of terrorism. To close the pathways of

incorporation into society of these former terrorists who have abdicated violence would not only promote the collective irrationality of prisoners still committed to the crime. It would also feed the *numantinismo* of terrorists still in freedom and of their *political* environment.

The policy of reinsertion has been a success. Criticizing it can be popular. Even electorally profitable for those who are seen already, again or continuously, immersed in campaigning. Political profits [are] also accrued by promoting instincts of revenge. But the State policy in the fight against the scourge of terrorism should define clear ideas and cool heads. Emotions generate emotions, and precisely from these [emotions] terrorists are nurtured for their work to recruit new members.

That the accelerated reinsertion of the last few months coincides with a process whose end is the granting of the penitentiary third degree to the police officers Amedo and Domínguez, convicted for belonging to the GAL, cannot be a coincidence. But, in any case, it would be absurd to say that it is motivated by it. The policy of reinsertion and the general lines of penitentiary treatment for terrorist prisoners are, [along] with the police action, the cornerstone of the democratic State's fight against terrorism and [they] were designed long before the two police officers were convicted.

If something has changed it is because the current Minister of Justice and the Interior has the political will to carry them out without consequence and does not hide it. As in the reinsertion cases of *etarras*, the sense of justice also rebels against Amedo and Domínguez obtaining more or less limited freedom.

Moreover there exists the perception in much of society that this favor is granted by the Government under pressure from some prisoners that without a doubt have

information about the plot of the GAL and any implications that the State does not want to come to light. But if gradual reintegration of Amedo and Domínguez serves to make the enemies of this policy toward *etarras* understand that it is the best way to end nearly three decades of deaths and pain caused by terrorism, it is worth it to support this malaise that causes many Spaniards [to be] certain that they will not complete the sentence they deserved.

The Government Cannot Keep Quiet (*El Gobierno no puede seguir callado*) 21
December 1994

A day and a half after a judge ordered the arrest of the former Director General of State Security Julian Sancristóbal, accused of crimes that refer to an alleged plot of State terrorism, the Government has not said a single word to dispel the concern and discouragement that have taken hold of many citizens. It is true that, starting with unemployment and job insecurity, the people's concerns are not reduced to what is happening these days in the *Audencia Nacional*. Also, it is that the charges for which Sancristóbal has been arrested refer to events that occurred more than a decade ago. But, in an already very tense environment, it will be difficult to address those problems that concern the citizens while the suspect of serious events continues depending on active political leaders. It is alleged that someone could have had a personal or political interest in reactivating the GAL issue now. It is possible that this is how it could have been, and citizens should know, but that does not change things: the GAL issue has not been dug up because it was never buried. And it was not because nobody in power, ever acknowledged that the GAL was a tremendous political mistake and a criminally botched

job. There were not even publicly known terminations or resignations that could have been interpreted by the public as an implicit admission of guilt and commitment to non-recurrence. The reverse: still yesterday, the former minister Barrionuevo claimed the solidarity of "friends and supporters". Supporters of what or of whom? Perhaps of the efficacy of the GAL to clean the border from terrorists, according to a police union [official] affirmed yesterday?

It is true that the attitude of the French authorities changed after the attacks claimed by the GAL. But that change would have occurred anyway, because belligerence against terrorist groups ambushed in their territory formed an essential part of the program of the center-right coalition that won the 1986 elections, and that later the other parties assumed. But, in return, the existence of the GAL provided ETA the flag they were looking for to prove their theory of *two symmetrical violences*, speech in which, they have founded the continuation of the *armed struggle* by a new generation of activists with their corresponding civilian supporters. ETA was never so close to success as in the years of the GAL. The de-legitimization of the democratic State they were looking for by provoking military [personnel] – in the hope of producing a regressive blow – they almost got it in those months and years in which the GAL and ETA competed in the same field. Including that of the so-called "mistakes". Up to nine French citizens outside the terrorist organization figure among the victims of the gunmen in the GAL.

At the end of the seventies and the beginning of the eighties there were many politicians of all ideologies – including the Basque nationalism and what was later called the Popular Party – which insinuated, when they did not proclaim, openly, that the only way to end ETA was "to do what De Gaulle did with those of the OAS". But the only

[thing] that can be claimed from the Government is precisely that the GAL disappeared, while ETA has continued killing. Exactly, 214 people since the beginning of 1987, the year in which the last attack attributed to the GAL was committed. That is the only self-criticism of which one has on record by the Government of Felipe Gonzalez in relation to this matter.

‘Dirty’ Histories (*Historias ‘sucias’*) 25 February 1995

THE STATEMENTS of Lieutenant-General Sáenz de Santa María regarding the antiterrorism fight are of unquestionable informative interest. Not in vain was he an essential piece in this difficult fight during the first 10 years of democracy, as, delegate of the Government in the Basque Country and commander-in-chief of the National Police and Civil Guard, where he relieved Luis Roldán. Some of his statements are truly disturbing and, of course, objectionable. Above all, the thinly veiled recognition of the need to utilize dirty war methods, even of murder if there is no other alternative, and the general hypothesis that the effectiveness of the fight against terrorism demands on occasion going beyond the edge of legality.

The greatest triumph of terrorism over the rule of law is that it arrives to copy their methods of terror. With this not only are their institutions degraded. It is also a form, if effective, to extend the life of terrorism, including if the historical or ideological alibis that gave it [its] origin have disappeared. This is, perhaps, what has happened in Spain with the GAL and with some of the stories that now Lieutenant-General Sáenz de Santa María tells us.

He has said that, at times, in the fight against terrorism there are things that should not be done; that if they are done, they should not be talked about, and if they are said, they should be denied. Although the harsh reality is like this sometimes, it does not negate in any way the obligation of the rule of law to investigate such facts and punish those who could have committed crimes. This is exactly what the legal proceedings underway regarding the GAL is about. That unlawful procedures were employed in the early years of democracy does not absolve from blame those who have done it during the socialist phase. It is more: the responsibility of those is greater, because the democratic system was more settled and had sufficient strength to purge the most antidemocratic elements from its police.

Secret and Antiterrorism (*Secreto y antiterrorismo*) 23 March 1996

The Public Defender, Fernando Álvarez de Miranda, has asked the Government for information about their confusing and controversial accord that permits it to declare police and the Civil Guard proceedings on terrorism secret. The Director of the Data Protection Agency (DPA), the official body that makes sure, among other things, that certain information from police files is not kept prohibited from public knowledge had previously done the same thing. This Government accord has all the traces of influencing sensitive issues of the fundamental rights of the person whose defense has been assigned both to the institution of the Ombudsman and the Data Protection Agency. Therefore, it is essential that the Government explain its nature and scope. For now, the only public explanation has been given by the Secretary of the Interior, Margarita Robles. But it does not clear the unknown principals. Margarita Robles has been limited to ensuring that the

declaration of reserved matters does not affect [neither] operations nor police actions against terrorism, but only the information relating to them. That would ensure that possible criminal acts or excesses that hurt people would not go unpunished or fall outside the judges' actions. She has also said that the agreement is not retroactive and, therefore, does not affect the dirty war actions against ETA, such as the GAL and others, currently under judicial investigation. It may well be so, but that explanation does not reassure everything about the potential impacts that a simple agreement could have on rights guaranteed by the Constitution or by organic laws. In any case, the Government should give this guarantee formally and in writing. A mere newspaper statement is not sufficient to clarify this important issue. It is what the Ombudsman and the Director of the Data Protection Agency ask.

Fear is the Message (*El miedo es el mensaje*) 9 February 1997

On 10 December 1995, ETA assassinated in Madrid six workers who were traveling in a Navy van. A few hours earlier, 500 people had demonstrated in Ordizia, Guipúzcoa, in solidarity with a young man of 23 years arrested after murdering two *ertzainas*. This young man, a "prominent member of the *nationalist* left" as defined by the Minister Atutxa, will be tried by jury soon for two alleged crimes of murder. However, more than half of the 36 people – including members and alternates – appointed by lottery to form part of that jury have tried, under various pretexts, to be exempt from that role. None of them claimed to be afraid. In the Basque Country there is so much fear that even to recognize that one has it takes courage. The production of fear has turned out to be the principal activity of this so-called left-wing *nationalism*; it is to

say, the political front: those who offer press conferences and threaten, sector by sector, professors, journalists, judges, politicians. The youth mobs harass those threatened; [putting] graffiti in fronts of their homes or in their classrooms. And every once in a while ETA kills someone – a seller of bicycles that crossed the path of a terrorist, a professor, a non-nationalist politician, a nationalist *ertzaina* – to make it clear that the threat can be met. Fear has, therefore, objective reasons: there are motives to take their threats seriously. But fear disturbs the trial; when someone is not able to overcome it, it is probable that one ends up joining those who threaten them. For that there were enough people willing to mobilize in solidarity with the murderer of the two *ertzainas*; for that there is no shortage of feverish protesters that convert into murder the apparent suicide of José María Aranzamendi in the Alcalá Meco prison – without any evidence and before the judge concludes their inquiries – and for that there are not enough citizens willing to form part of the jury that will judge Ordizia's alleged killer. This evidence justifies the existence of the *Audiencia Nacional*, born precisely to reduce the effects of the social climate of intimidation of judges in charge of judging crimes of terrorism. But it also questions the drastic distinction between terrorist murder and common homicide in certain cases. The murderer had a history as an active participant in street riots and other violent acts in demonstrations promoted by ETA satellite organizations. Although he is not a member of ETA, it is ETA that those who try to wriggle out are afraid of: fear will be free, as they say, but it enslaves people.

On Friday, a San Sebastian newspaper published a letter from a neighbor in Ordizia – precisely – in which the "hoax" that the husband of their daughter was an *ertzaina* was rejected. Someone had spread it, and soon threats appeared painted on their

house, for which the family talked with “someone we considered appropriate”. Despite this, this past 1st, at dawn, they planted a bomb. The woman ends her letter by asking: "To whom do I have to go for this to end? These kids have some responsible [for them], right?". They do, but there are doubts about the opportunity to apply the law to them as any other citizen.

Authoritative, sound, equidistant voices deduce from the invocation by the violent [persons] political reasons or pretexts that it is an error to think that you have to apply police or judicial solutions, that only serve to "give them publicity"; however, to not offer an alternative other than that to become distracted, that the authorities do as if they do not find out that HB broadcasts a terrorist propaganda video, specifically a video which offers the message that ETA made public in April 1995 with the motive of the attempted assassination of Aznar. It is possible that those of HB are thrilled at the prospect of appearing on the news for 20 days when they are arrested, but they would be even more so if justice were not done: they would give on conquered ground the dissemination of such messages, and the next time would increase the dose. And the fear would continue to be the gasoline that fuels the motor of our defeat.

Truce and Opinion (*Tregua y opinión*) 20 September 1998

It is not surprising that the ETA truce is viewed with more hope in *Euskadi* than in the rest of Spain. The emergency survey published yesterday by this newspaper has come to ratify this perception differently than a fact that has had an enormous impact in all of the country. Given that the Basques have a more immediate threat of terrorism, it is natural that above all other considerations they value whatever initiative that would

alleviate this tension. An ETA truce is viewed well by those who have nothing to fear – because they have adapted more or less – but above all for those who resisted violent imposition and do not cover. The sum of both groups totals 73% of hopeful Basques. The rest of the territory dominates in skepticism and not without good reason. The survey also includes some more surprising reactions. For example, that the citizens who consider the Statute of Guernica to be a still useful instrument, and not expired, are more numerous in the Basque Country (51%) than in the rest of Spain (34%). This surely means that this negative exterior perception is conditioned on the detachment shown by nationalist politicians in their statements; but Basques themselves do not see it this way. One of the debates that raises with this new situation is if in the political framework that the nationalist parties advocate for with diverse intensity corresponds to a real demand in Basque society or to the fact that ETA makes it depend on the definite abandonment of violence.

The survey offers some indication. For example, there is a difference of 20 points between those who consider self-determination as “a priority issue” (39%) and those who are willing to accept “a change to the Spanish Constitution that recognizes the right of self-determination” (59%) in exchange for ETA to permanently abandon weapons.

The responses taken as a whole show that what the politicians busy themselves with does not necessarily coincide with what the citizens are concerned about and they often invoke in vain the alleged public will to implement decisions that only they are interested in. The newspaper survey that the Vitoria Government did a few years ago regarding the priority concerns of Basques systematically indicate[d] that terrorism [was], along with unemployment, one of the two essential concerns; while the “development of

the Statute [of Guernica]” and “the achievement of self-governance aspirations” always figure in the three less pressing problems in a list of 16 issues.

It is surprising – although the data had already been revealed by other, previous studies – that there are more Basques ready to accept a change to the Constitution and the Statute [of Guernica] than to grant amnesty to ETA prisoners. Surprising, because without a doubt it would be more feasible to release the prisoners than to undertake legal reforms that are of doubtful democratic legitimacy – to the extent that a minority imposes its points of view to the majority – and that would require a difficultly achievable consensus.

But beyond the findings that this emergency survey gives, we are in a situation in which the politicians, in first place the Government, cannot simply wait for developments or jump the gun when there are no firm indications that an indefinite truce could become definite. The Government has consistent indicators that there is a real chance that it will be like this. And it should go to any depths to achieve it. Aznar’s statement from Lima points in the right path, that is none other than concerted action of all the democratic parties to explore the paths that would contribute to a lasting peace. The fact itself that President Aznar yesterday went directly from the airport to the Zarzuela, to interview with the King, transmits to the citizens without further explanation the message that we find ourselves before an exceptional situation.

The absence of attacks should permit all of the parties to open a profound debate and to not shy away from any issue. As the *lehendakari* Ardanza has recalled, we could have arrived to the moment of opening the process of dialogue contemplated in Article 10 of the Pact of *Ajuria Enea* for at the moment there exists an “unequivocal will” from ETA to renounce violence. But this same text establishes the rule of democratic majority

for any accord of political nature. It would be an unacceptable precedence to those who carry more than 800 deaths on their backs.

Terror and Error (*Terror y error*) 25 September 1998

The global fight against terrorism, or better said *the* terrorisms, is up to everyone, as Clinton claimed from the platform of the United Nations. But the President's claim lost legitimacy after it came to light that the North American attack against a factory in Sudan, this past 20 August, was based in false or improbable information. Could a forger really have deceived the super power's Administration, as the North American press has highlighted, in information that has been denied in an unconvincing way by the White House? In Al Shifa, it seems, they were not manufacturing chemical weapons, but rather pharmaceutical and agricultural products. The error, if it is actually an equivocation, is serious. The Government of the United States, as former President Carter has asked, should publically ask the Sudan for an apology and compensate the victims. Clinton, internally weakened by the Lewinsky case, reacted too quickly to the terrible attacks against the embassies of his country in Kenya and Tanzania, that caused 258 deaths, 12 of them North Americans. He looked for two objectives in order to bomb: the manufacturing plant in the Sudan and a base in Afghanistan, where he did not reach the millionaire Osama Bin Laden, who the United States puts behind these attacks. Haste is not good advice in the fight against terrorism. Unilateral actions, ignoring international rules, also are not the way.

The fight against terrorism has converted into the star issue in the General Assembly of the United Nations. If the Spanish Minister Abel Matutes has asked for

“collective instruments” to fight this scourge, it was France that was the most precise to propose a “universal convention against the financing of terrorism” that would allow lifting banking secrecy in all countries in case of a judicial investigation into terrorist crimes which would include freezing the accounts of those suspected of financing such activities, thereby attacking its channels of support. International cooperation, and not only advocating from the Western countries, will work when there are not geographic or fiscal sanctuaries for those who use this type of violence. And if errors are not committed like those of Clinton in the Sudan, that undermine the moral base of the fight against terrorism.

Basque Plurality (*La pluralidad vasca*) 7 July 1999

The accession of a socialist to the presidency of the General Assembly of Álava (the provincial parliament) is the anticipated confirmation that it will be the Popular Party candidate – the most vote formation in the province – who leads the Provincial Council (the Executive). Another member of the Popular Party, Alfonso Alonso, is the mayor of Vitoria since Saturday, where Aznar's party won more comfortably. The institutional map of the Basque Country after the agreements exactly reflects the picture that came out of the ballot boxes on 13 June. The intense polarization lived the last year between nationalists and non-nationalists has failed to override the substantial differences between the PP and the PSE, on the one hand, and between the PNV and EH, on the other. Hence, in the municipalities and counties of *Euskadi*, institutions closer to citizens and to actual politics, it is much more difficult to reach general agreements such as that signed by all the nationalist forces in the Basque Parliament. In many cases, the electoral verdict does

not even allow it. Therefore, the principle that municipal and provincial institutions are governed by the candidate of the list most voted has been generally imposed. In some cases, unstable governments are anticipated, given that no party won an absolute majority in the three Basque capitals or in the General Assembly of Álava, Guipúzcoa and Vizcaya, and the only majority agreement applicable to the six institutions – the old tripartite of the two moderate nationalist parties and the PSE – was ruined by the sovereign winds driven by Lizarra accord.

Contemplating the the post-electoral Basque scenario – the three Basque capitals, governed by a different party: the PNV, in Bilbao; the PP, in Vitoria; and the PSE in San Sebastian, and broken in Álava the traditional flake of PNV in the councils – one discovers until what point the bet Arzalluz's [political] party was wrong. And not for trying to attract *Herri Batasuna* to institutional terrain, but for doing so by embracing the political script of Arnaldo Otegi. Álava involves the most visible and felt failure from the scene of nationalist hegemony in which the PNV embarked with the argument of consolidating the ETA truce. By rewarding the PP, it does not seem that the Alavese repudiate the PNV administration in institutions, but rather the intentions that they sensed in the messages of the nationalist leaders. Far from expanding their electoral base, the discourses of the “new majority” and of the “Basque ambit of decision” have made nationalism lose one of the three territories which it has ruled for two decades.

The Alavese *exception* recalls that identity, ideological, cultural and territorial plurality is a constituent note of Basque society, not a hassle from which one can free their self in the next electoral convocation. But it also has its consequences in terms of power. For the first time in 20 years, the PNV is going to be out of a Provincial Council, an organism of

great importance in the Basque Country for the confederal character of its institutions. Among their responsibilities, the Basque councils have one essential [responsibility]: to raise, under the Economic Agreement, all taxes from their territory, that they make every year one part to the Basque Government and the other (the quota) to the State. Unlike other communities, there are many things in *Euskadi* that cannot be made against the criterion of a council. For example, to address the merger of Basque savings banks, that now will have to forcibly consider a restructuring of power, above all in the case of the Alavese *Caja Vital* Alava, or create the Basque Public Bank envisioned in the program of the Basque Government (PNV-EA).

The complex is more difficult to manage than the simple, but that is the plural reality of *Euskadi*, and that key is expressed, consult after consul, [by] their citizens. They did it when ETA violence and intimidation was at its height, and they do it now that there is reasonable hope that the cessation of terrorism is definitive. Therein lies the challenge of politicians: to take plurality as a virtue and oblige oneself to seek agreements and common areas; the opposite of exclusionary discourses and radical attitudes that proliferate in Basque politics.

Against ETA (*Frente a ETA*) 17 September 2000

Police and judicial action is essential to counter ETA terrorism. From there the latest arrests and judicial proceedings are encouraging. But the political problems in the Basque Country, perfectly separable from totalitarian murder, require the capacity for dialogue. The Basque citizens know this well, incapable of exercising their democratic rights, they are reacting civically and peacefully to the unbearable harassment from

violent persons. The arrest of 18 *Ekin* leaders, politically considered responsible for ETA, and one of the most bloodthirsty *etarra* bosses, Iñaki de Rentería, in the south of France, mark a turning point in the counterterrorism fight, which returns to recuperate the initiative after months of uncertainty. The satisfaction with these police achievements should not, however, convert into euphoria, in a moment of increasing tension in the streets of the Basque Country. Full precaution is little against the reactions of the *etarras*, like that which almost cost José Ramón Recalde his life. Yesterday, the Basque police found a launcher with eight armed timed grenades near the Chillida Museum in Hernani, shortly before the King and Queen of Spain were to inaugurate it. And not far away, violent youth attacked José Ramón Chica, one of the two Socialist Councilors in the Town Hall, in the name of EH.

There is no room for euphoria, above all because on Friday the responsible for the Interior of the Basque Government provided authentic samples that the rule of law and the civil liberties of citizens are in question in the territory under the responsibility of the *lehendakari* Ibarretxe. The autonomous Basque police, following very clear political orders, used force to dissolve peaceful demonstrations that marched through the streets of San Sebastian in protest of the attack against Recalde. Guided by an intolerable and hypocritical principle of equidistance, they were limited to avoiding contact between the peaceful demonstration and the group of pro-*etarras* that chanted the slogans “ETA, kill them” and “More ETA military”. Going with the form of the law – the violent [persons] had demonstration permits – they did not repress an illegal act of apologizing for terrorism and of intimidating the peaceful citizens and they dissolved, in exchange, the

tranquil protest of those who demanded the full exercise of the system of freedoms in the Basque Country.

The Prime Minister reasonably asks for “tenacity” and “perseverance” in the counterterrorism fight and encourages social mobilization against the abuses. But this also requires the forces of public order to defend civil liberties, and obliges them to push for political dialogue to build bridges in a society on the border of the abyss, which from within aggravates social division.

Blow to Our Civilization (*Golpe a nuestra civilización*) 12 September 2001

The world finds itself in suspense after a series of terrorist attacks [reached] the heart of the greatest power of the world: its financial center in New York (represented by the symbolic Twin Towers) and the core of its military command (the Pentagon). It is impossible at this time to count the number of victims, likely to be hundreds, if not thousands, or who is behind this unprecedented offensive that reveals a limitless audacity and fanaticism. It is the largest attack ever experienced by the United States on their own territory, but above all, it is an integral aggression against its political system, against democracy, and the free market. In short, against all of us who share the same democratic principles that were so hard-won in our country.

After the chill that has shaken the world, and also fear, why not say it, it is time to make an appeal for calm and trust in the capacity of the first international power and of the allied defense system to cope with this indiscriminate assault. We should also be prepared for a severe response. Spain is one of the United States’ allies in the Atlantic system of defense [NATO] and should act as such.

The terrorist attack, make no mistake, it is at the essence of our political civilization, and, regardless if its perpetrators are identified, it demonstrates the terrible contaminating effect of conflicts as fierce as those of the Near East.

What has happened in the United States could repeat itself in Europe, given that the emulation factor of terrorism, as recent history has demonstrated, is large in a media [dominated] world. Test of this is that some European governments immediately formed their crisis cabinets. The Spanish Prime Minister, José María Aznar, announced his immediate return from his trip to Estonia, as did almost all of the European leaders who were outside of their coordination centers. Vladimir Putin quickly offered his solidarity to the United States, a reflection that highlights that, fortunately, the Cold War is a thing of the past.

Hurrying to identify the perpetrators is bad advice, and moreover could generate greater injustices. They cannot pay for the sins. Although it will be difficult, political leaders have to avoid hysteria between themselves. Bush and his administration should pursue those responsible, as the President has promised to do, but not fall to the temptation of launching counter-offensives if it is not known for certain from whom or where the attack came from.

The series of coordinated attacks requires a high level of organization, cooperation, and finance. The chain of attacks, which started with the hijacking of four airplanes, two of which would be flown by some *kamikazes* into the Twin Towers of New York, draws a terrorist capacity unknown until now and a determination that connects with the most extreme fanaticism. Many eyes, and the U.S. Government's suspicions, have gone immediate toward some violent fundamentalist group, and in particular toward

those that are promoted by the Saudi millionaire Osama Bin Laden, who sought refuge in Afghanistan of the Taliban – a regime that yesterday condemned the attack – and who three weeks ago forewarned of an “unprecedented” attack against the United States.

Although many leaders of movements or Muslim States quickly condemned the attacks, it does not stop being significant the climate in which yesterday many saw the attacks in diverse Islamic populations, understanding that it meant a humiliation of the United States. The television images of numerous Palestinian children dancing in Jerusalem were sufficiently representative of this type of revenge of the suffering that they have endured many times through Western silence. The Arab-Israeli conflict has a global contaminating effect, which should have been tackled long ago. Arafat was quick to distance himself from the attacks and express his condolences to the U.S.. Ariel Sharon should learn the lessons from what has happened, and move toward détente.

Global Projection

At this point, no hypothesis regarding who is responsible for the attacks can be ruled out. The Oklahoma massacre was an act of a fanatic American. Even if the attack came from the Islamic world, it should not be demonized as a whole for a violent act of a few. It is necessary to banish the idea that we are before a brutal test of the clash of civilizations that Huntington predicted, when the American society, despite all its problems, is especially plural and multicultural. To remove this temptation is part of the complexity of an advanced and plural society, a characteristic with which we need not only to live, but one from which we draw strength.

Terrorist acts such as those yesterday – that manifest in massive attacks like those that cost dozens of lives in 1998 in the United States’ embassies of Tanzania and Kenya –

seek global public projection. The experts of violence of ideological intention have warned for years about the new forms of terrorism that appeared at the end of the last millennium. On the one hand, the appearance of religiously motivated terrorism capable of removing any moral restraint to the use of violence; on the other, the combination between the vulnerability of our intercommunicative societies and the relatively easy access to means of massive destruction. The indications are that both factors were able to cross to cause yesterday's catastrophe.

Bush's reaction and that of his Administration has been quick, cold, and effective. When in doubt, U.S. airspace was closed, all federal buildings were evacuated and their activities were suspended. Public life in the United States was in fact suspended throughout a good part of the territory. But what could be, in theory, be a relatively small group of terrorists, has generated a sensation of lack of control, powerlessness, and vulnerability in the country with the most power in the world, and that until now has felt practically invulnerable in its territory. The increased complexity of societies, such as the American, makes them more vulnerable. The attack is a human tragedy; and it will also generate a self-esteem crisis in the U.S.. Bush will have to demonstrate leadership capacity so that the American society recovers confidence in itself.

The manner in which the attacks were produced highlights how absurd and useless Bush's bet for an antimissile shield against possible aggressions from alleged *thug States* is. A tremendous failure of the U.S. intelligence services, who expected a terrorist attack against one of its embassies, but not an attack in their own territory, has been revealed, a type of *postmodern Pearl Harbor* that has come to its own Pentagon, incredibly poorly protected. And to fight against this type of terrorism, to avoid the

recurrence of acts like those of yesterday, that represent a new type of war although it is not between States, international cooperation will be most efficient. This indiscriminant terrorism, fruit of the most evident fanaticism, is the new central threat that democracies should deal with, with methods true to their values. The tragedy has been enormous, but it would have been greater if the terrorists would have had nuclear weapons. Good intelligence, based in indispensable international cooperation, is worth much more than a lot of nuclear shields.

It is also the first act of hyperterrorism of the global information era. From the first minutes, we were all watching the crisis live. But the globalized terrorists also count on this. After the initial bafflement, the sensation of panic spread to the economic and financial markets. In an incomprehensible manner, quotes were not suspended, while Wall Street was, although its managers insisted that they resume their activities as soon as possible. The price of petroleum shot up, to a point disastrous for the global economy.

The citizens of New York, Washington, and generally in all of the United States, have lived and continue living in distressing times. The act of hyperterrorism has reached us all. The smoke that Manhattan was immersed in yesterday makes recently born citizens cry. The feeling is that this act marked the beginning of a 21st century plagued with serious uncertainties.

Signs of Death (*Señales de muerte*) 4 December 2002

Yesterday, ETA again gave signs of life, that is to say of death, this time in Santander. There were no victims because this time the advanced warning – given to a newspaper that has to alert the *Ertzaintza* so that they tell the National Police – gave a

range of 20 minutes to evacuate the parking lot where the device exploded. The method of the car bombing is blind by definition, with or without advanced warning, and sometimes it causes victims, as in the Hipercor in Santa Pola, and other times it does not. But the objective is met in both cases: make it clear that ETA has not gone away, that they can kill again.

The message has special meaning this time. It has been three months since the beginning of the process of criminalizing *Batasuna* and the preventative suspension of its activities, and the outrageous reaction from this movement's social base that predicted those who would be opposed to both things has not taken place. The arrests of activists has continued, in Spain and in France; the process for the judicial criminalization of *Batasuna* is in progress and Judge Garzón has continued revealing the plot forged around ETA. Yesterday, the National Court upheld the prosecution of 32 members of *Ekin*, the agency coordinating the plot with double militancy, which makes fools of those described as "waiters" in the first steps of the judge in that direction.

All of that has not provoked protests similar to those that were common. Street violence has been reduced, and the social eco of the rudeness of the leaders of *Batasuna* (now with great aim the so-called *Sozialista Abertzaleak*, SA: The same acronym as the Assault Section of the Nazi party) is very relative. It is not that ETA has disappeared, because so far this year it has placed thirteen car bombs and many people are still threatened. The change consists in the affirmation of the rule of law, to end by two parallel tracks with the impunity of those who have one foot inside and one outside the law, is proving [to be] the most effective firewall of the generational reproduction of

violence. It provides many young people [with] the alibi to disengage from the inertia of low intensity terrorism

That is happening, and that is why ETA wanted to send the most indiscriminate message possible by placing a car bomb in a parking lot.

Sleeper Cell (*Célula durmiente*) 25 January 2003

Yesterday's arrest, in various Catalan localities, of 16 people, the majority of Algerian nationality, suspected of belonging to the terrorist network Al Qaeda that is directed by Osama Bin Laden, reinforces the hypothesis of the important role that Islamic terrorism has awarded Spain as a backup zone and as an installation of *sleeper cells*, awaiting the order to act. With yesterday's arrests the total number of persons imprisoned in Spain for their alleged link to Al Qaeda increased to 40 since the terrorist attacks of 11 September. The Prime Minister, then, is right to point out that the threat of Islamic terrorism is not a fantasy. The facts point out that it is very well present in Spain, and that only extreme vigilance, that which permitted the police operation yesterday, can avert this threat and prevent it from converting into a real threat.

Aznar has assessed the operation as "the disarticulation" of an important terrorist network linked to Bin Laden, that "was preparing for the commission of attacks with explosives and chemical material". And although we will have to wait for the results of the judicial investigation, the material intervened by the police – portable transmission equipment, computers, explosives and chemical materials to make them – and the connections of some of those detained with terrorist cells established in the United Kingdom and France speak to the danger posed by the dismantled group. It has been

these connections, especially those maintained with alleged terrorists recently detained in the United Kingdom and in France, which led those countries' police [forces] to alert the Spanish police to the existence of the dismantled network. Which demonstrates once more, as if it were necessary, the importance of collaboration or even joint police work between countries that face a terrorist threat that does not have borders and that can make itself be felt anywhere. Needless to say yesterday's arrests cannot assume at all the criminalization of the Maghreb immigrants that live and work in Cataluña.

Lawless Limbo (*Limbo sin ley*) 13 March 2003

Fourteen months after moving them from Afghanistan to the base at Guantanamo Bay, in Cuba, the United States continues to keep some 650 prisoners in conditions of inhumane isolation, among them one prisoner of Spanish nationality, for whom the Government has not been able to get even the minimum judicial guarantees. A federal tribunal in Washington has denied these prisoners the right to a trial in the United States, considering that it is about foreigners on territory that does not fall under the jurisdiction of its Constitution. The Minister of Justice has described the situation as "an important victory in the war against terrorism". Quite the opposite. The blind fight against terrorist is blowing away civil liberties and the credibility of the United States with respect to human rights.

Formally considered "illegal combatants" so that the Geneva Convention of 1929 does not apply to them, the United States maintains these prisoners without the right to family visitation or to legal assistance, in a base that constitutes a lawless limbo, an anachronism in sovereign Cuban territory. Legal arguments aside, we are seeing an

immoral act by a super power that extends the extraterritoriality of its laws in a near universal form to protect its own citizens and soldiers.

Hopefully, the Supreme Court will rectify this, since the Bush Administration, judging by Ashcroft's assessment, will not. Just as it has not tackled the debate about whether it is possible to torture prisoners to obtain information about the terrorist networks they belong to. There is absolutely no control over what the CIA and other agencies outside of the United States do when it comes to trying to extract information from prisoners such as Bin Laden's lieutenant, detained in Pakistan. Acting this way takes away all credibility for the alleged policy of promoting democracy and human rights throughout the globe.

Political Priorities (*Prioridades políticas*) 23 April 2004

References to a new terrorist threat on one hand, and constitutional reforms on the other, were the center of discussion between the King and the President of the Courts, Manuel Marín, in the opening session of the VIII Legislature. The Prime Minister also referred to the constitutional reform when Francisco Rubio Llorente took the position of President of the Council of Europe.

The response to Islamic terrorism is the immediate priority in the beginning of this legislature. The efficiency demonstrated by the police in the identification and arrest of the perpetrators of the 11-M massacre has been unanimously recognized. But the investigation itself has revealed grave failures in its prevention: essential evidence was underestimated; the role that Al Qaeda assigned to Spanish territory in its strategy was assessed incorrectly, although 66 of its members had been arrested since 11-S [9/11]; few

police officers were dedicated to the task of getting information about this terrorism; there were coordination failures, etcetera.

The new director of the National Intelligence Center, Alberto Saiz, who came to the position without previous experience, will have as his first mission to verify where the failures were produced and how to find ways to deal with them. The ongoing investigation in the United States about similar errors in relation to 11-S [9/11] is an example that the Spanish Parliament cannot ignore. In any case, it will be essential that the measures that the Government adopts have full parliamentary support.

The Constitutional reforms (and of some of the statutes of autonomy) will certainly mark the political calendar of the next four years. They should be addressed, said the King, “with the same spirit of consensus” as that with which they were drafted. Something that is not easy, because it is evident, as the Speaker of the House recalled, that there exist very different visions and interests regarding these reforms. For them to prosper, an accord between the two big parties, that represents 80% of the voters, is needed. But who drives the reform, the PSOE, needs the support of the nationalist allies to complete a majority, and their proposals do not necessarily coincide. All of this could lead to a paralysis or, on the contrary, to the dynamization of political life. Because, as Marín also recalled, the harmonization of different ideas and interests is the same as uppercase Politics. A legislature is opening in which political talent will become a necessity again.

To Channel Without Trivializing (*Canalizar sin banalizar*) 11 May 2004

Although for distinct reasons, PP and PSOE are to channel toward a monitoring commission for the Antiterrorism Pact, which will meet tomorrow, some of the controversies that they keep facing. Rajoy demanded the meeting via a letter to Zapatero so that the Minister could rectify his opinion that before 11-M there had been "political insight". For its part, the Government committed itself to convene to discuss measures that would improve antiterrorism efficacy.

Since there is such a framework, it seems logical to try to take advantage of it to eliminate misunderstandings, since there have been some, before they become a pretext for an antiterrorism policy of division and confrontation. To avoid it was one of the objectives of the pact, and it could be considered applicable to any [form of] terrorism. However, it would be little realistic to pretend to go further and convert the accord into a framework for eventual shared initiatives against Islamic terrorism. The pact, its concrete content, only makes sense against ETA. It is a public commitment that no change in majority will modify the criterion of not negotiating political concessions with terrorists; precisely because the expectation of achieving this has been the principle incentive of ETA's continuation. For that it was a pact between the only parties with realistic possibilities of governing, although other forces could join.

The accord develops this principle in relation to matters such as the Pact of Lizarra, the Statute of Guernica, the penitentiary policy, eventual legislative reforms, etcetera. It is to say, always in reference to the specific problems posed by ETA terrorism. It would be artificial to try to apply those principles to Al Qaeda, which does

not propose to change the Spanish Constitution to include self-determination, or deal with legal organization, nor pretends to negotiate anything with the Government.

The meeting tomorrow should serve to clear up misunderstandings, to reaffirm the compromise to take the topic of terrorism out of partisan confrontation, and perhaps both parties will exchange ideas about how to tackle this new challenge; but it would trivialize the pact to pretend that, given that it is called antiterrorist, that it serves as a guide to deal with any terrorism: all are condemnable, regardless of the pretext that they claim, but that does not mean, as Aznar seemed to believe, that all are equal or should be combated with the same measures.

Defensive Measures (*Medidas defensivas*) 26 May 2004

The Minister of the Interior, José Antonio Alonso, has presented some of the measures destined to combat Islamic terrorism that the Government is going to put into action. It is a priority of the new Executive, per the compromise reiterated by Zapatero. But it is also a task that presents great difficulties; due to the extreme fanaticism of this type of terrorists, immune to almost any moral inhibition regarding the effects of their actions, including their own lives, which increases their dangerousness and creates obstacles for its prevention; and due to the absence of achievable political goals, which prevents them from acting on cited pretexts. Its international character is another difficulty, although it also favors concerted action of all nations.

Minister Alonso's measures are fundamentally legislative and organizational. We hope that he does not fall in the syndrome that affected that previous Government to respond to each political or police difficulty with a legal reform. Experience indicates that

what is more efficient than changing legislation is to apply with tenacity measures that already exist. But it is possible that some norms, such as the Law on the Protection of Data, should include clauses that permit a more flexible application in relation to certain transfers of funds or the identification of users of mobile telephone cards. It also seems convenient a better control of lodgings, car rentals and the existence of explosives in quarries and job sites. It is about limitations that do not question the liberal model of coexistence.

In the organizational aspect, a Center for Information Coordination, internal and exterior, will be created for Islamic terrorism. Being an almost virgin terrain, it must be hoped that the traditional resistance of the distinct police bodies to share information will not manifest in this case as obstructionism. The increase from 200 to 600 agents specialized in this type of terrorism is an adequate measure for the situation, although its efficacy will depend on the qualification of the human teams, which includes knowing the Arabic language.

One last consideration is that it would be a error that this strengthening to combat against Islamic terrorism was done at the cost of the fight against ETA. Maintaining police efficiency and judicial strength, as well as democratic unity, against this band is now the essential condition so that the (realistic) expectation of its definite defeat does not fail.

Bush Cultivates Fear (*Bush cultiva el miedo*) 14 July 2004

Bush continues clinging to the strategy of fear, because he believes that with it he can win a second term. His last notice has been to investigate, at the insistence of the

Commission for Electoral Assistance, who would have authority to suspend the elections of 2 November in case of an attack similar to that of 11-S [9/11]. Despite those who claim that there is a legal vacuum, the response seems fairly clear: the decision would correspond to, by law, Congress and the local authorities. Never to the Executive. There is a close precedent: the postponement of the primaries by two weeks that should have occurred that fateful 11 September 2001, for the New York municipalities. But not even during the Civil War, nor in the two World Wars, did the U.S. suspend or postpone national elections.

The Administration constantly stirs the spectrum of an attack before the elections, so much so that a report from Congress has complained that the alert levels are established without sufficient basis or explication. But the White House does not only have deaf ears for criticism, but also reinforces its own speech. Bush continues to defend preventative war and affirm that after the invasion of Iraq, despite not finding weapons of mass destruction, he has stopped their proliferation, the world is more secure and the U.S. is winning the “war against terrorism”. The speech could have an effective result, as, per a survey published yesterday by *The Washington Post*, more citizens trust Bush than Kerry when conducting the campaign against terrorism. But for the first time in this series of surveys by the *Post*, less than half of the country believes that the U.S. is winning this “war”. A record 38% had the opinion that it is even losing the war, and 53%, another record, believe the war in Iraq has not been worth it.

The question is, until what point a President that arrived to the White House thanks to lawyers and the Supreme Court with the vote recount in Florida is ready to continue playing tricks and with fear to guarantee their reelection? The danger is that a

party or a ruler is considered to be in a situation that some sociologists call post-democratic, in which they feel authorized to whatever they want once they have won power at the ballot box. Fortunately, there are still counterweights in democracies.

Are We Ready? (*¿Estamos preparados?*) 28 October 2004

Ten of the sixteen Islamists detained by order of Judge Garzón accused of preparing an attack against the *Audiencia Nacional* were prisoners: three for crimes related to Islamic terrorist networks and seven for small crimes. A profile, [taken] all together, similar to the group of hardened fanatics and fanatical recruits that carried out the slaughter of 11-M. Therefore, the measures that the Interior has started to put into practice to reinforce the control of prisoner's activities that have this type of history, and also those who have shown signs of getting close to the leaders who instruct, recruit, and train them to become martyrs, are justified.

The increase of the prison population in general, and that of Maghreb origin in particular, favors the conversion of prisons into pools of terrorists. More than 6,000 of the nearly 60,000 prisoners that are currently in the 77 Spanish jails are Muslim. Regardless of how dispersed they are, there will still be dozens of them in each establishment. The number of internees related to Islamic terrorism has gone from three in 2000 to 52 this year, per one of the reports sent by the Interior to the 11-M Commission. Prison – with a lot of free time – favors the psychological influence of radical leaders that offer petty criminals to continue what they were doing – for example, falsifying phone [SIM] cards, – but now to the service of a great cause. And with the possibility of becoming martyrs.

There are increasing indications that the 11-M plot went through the prisons. It is known, for example, that Abu Dahdah, detained since 2001 as the alleged boss of Al Qaeda in Spain, reported on Monday by a police officer as a likely instigator of the March attacks, received visits from people related to the perpetrators. If to this the fact is added that Judge Garzón just alerted about the inadequacy of the current legislation to cope with the new terrorism, very distinct from that of ETA, it is evident that there is still a lot of work to confront a challenge that will surely last.

The meeting for the Antiterrorist Pact planned for the 3rd of next month should serve so that the two biggest parties, instead having a blasting row, they coordinate to agree on the guidelines of what to do now, especially in the penitentiary and legislative terrains.

Better Vibrations (*Mejores vibraciones*) 28 July 2005

The generalized threat of Islamic terrorism has made Blair and Zapatero put their difference behind them. Pragmatism unites, above all in times of crisis. Even more so when it represents parties of the same family and one notices that there are not a few coincidences in antiterrorism material or in others of the European agenda, especially in the camp of police and judicial cooperation, and in that of economic reform of the EU that London advocates. The British Prime Minister, who invited the Spanish Prime Minister to a lunch in Downing Street yesterday, has manifested a notable interest in an Alliance of Civilizations, an initiative that the Spanish socialist leader exposed at the U.N. in September 2004 to create a common front between western and Muslim countries, and escape from the fatalism of a clash of civilizations.

Blair wanted to address it directly over the tablecloth and said that he had sufficient potential and importance for it be developed in the coming months. This idea also has the sponsorship of the Turkish Prime Minister, Recep Tayyip Erdogan, who also met with the British Premier, and who just publically received a boost from the Secretary General of the U.N.. Zapatero's idea, that is in its initial approach is not exempt from ambiguities and for that it requires a better definition, is considered by the PP to not be serious. Yesterday, Mariano Rajoy did not gauge the significance that the initiative could have beyond Spain when he affirmed, before the Downing Street meeting, that he had faith that Zapatero would not expel his speaker. The reverse is exactly what happened, something that Rajoy should take note of.

The War in Iraq and the close relationship between Blair and Aznar made the relationship between the British Labour Party and Spanish Socialists more difficult, and they did not get better when they arrived to the Government in 2004. Even less when Zapatero decided to align with the Franco-German axis. But the situation has changed dramatically in the wake of the latest EU crisis and the London [terrorist] attacks. Both leaders agree that European modernization passes through a renewal of the social model and the empowerment of the Lisbon Agenda and equally argue that the danger that terrorism represents also requires maximizing the Union's antiterrorism legislation, applying without restrictions the European Arrest Warrant and granting the police more facilities in the fight against this threat.

The Base of Shame (*La base de la vergüenza*) 15 February 2006

The cry for the United States to immediately close the shameful jail in Guantanamo is general. After the *Los Angeles Times*' revelation of the provisional report from five experts from the U.N. Commission for Human Rights, tomorrow in the European Parliament there will be a vote that also asks for the closure of this internment center and for the U.S. to respect international law and its own laws.

Guantanamo has become a beacon of shame. Although the U.S. has delivered a few dozen prisoners to their countries of origin, in this camp a few hundred prisoners have been kept without trial since the invasion of Afghanistan, in October 2001, in a legal vacuum which the European Parliament and diverse organizations have complained about various times. The U.N. experts consider that in some cases they practice torture and inhumane treatment, that prisoners' religious and sanitary rights are violated, or some one hundred prisoners on hunger strike are force fed. The members of the European Parliament recall that the law approved on the initiative of Republican Senator John McCain, detained and tortured in the Vietnam War, obliges the U.S. to ensure that no prisoner "be subjected to cruel, inhumane, or degrading treatment or punishment".

The Bush Administration considers the U.N. experts' report to be based in "hearsay", because its authors have not visited the base. The experts claim that this possibility was rejected because only three of the five were given permission [to visit Guantanamo], and without the ability to talk to the prisoners. But they did have access to former prisoners and their families that are now in other countries.

Guantanamo is not an isolated case. Its existence feeds the hatred that nourishes violent fanatics, like a horrendous display of the excesses of the so-called "war against

terrorism”. The same happens with the CIA flights that deliver prisoners that could be brutally interrogated in secret prisons in various countries, including Afghanistan. The U.S. could win in respectability and security if the internment center were closed and it gave those detained freedom, or at least, as the project of the European Parliament asks, they were judged in American territory with all of its guarantees “and without facing the death penalty”.

Strategic Partners (*Socios estratégicos*) 20 June 2006

The political relationship between Spain and the United States has experienced a marked improvement in the last months. The interview yesterday in Washington between Miguel Ángel Moratinos and Condoleezza Rice, reflected this. It is not a question of minutes, neither of gestures – although a joint press conference is welcome – but of interests and content.

Despite the disagreements regarding the Spanish withdrawal from Iraq and about the war itself, or having positions that do not coincide regarding Cuba – although the objective of a Cuban democracy would be shared post-Castro – the coinciding points increase: the Near East; Afghanistan, where, despite the deterioration of the situation, Spain, with NATO, is increasing its commitment; and the fight against terrorism. Moratinos even announced the willingness to cooperate more in the reconstruction of Iraq. However, it would be regrettable that, in deference to the “partner and strategic ally”, the Spanish Government did not insist that everything about the embarrassing CIA flights for the capture and illegal rendition of prisoners was brought to light.

It is a big change that the Spanish Minister says that “we need more of the United States in Latin America”, and that Spain should “complement” this relation. Perhaps it would have been more correct to address it as a triangular vision: Latin America-Spain-U.S.. Not for Madrid, or for Washington, or for Latin America would the extension of Chavez’ power throughout the subcontinent be good. But in the analysis shared, it is necessary to go to the root of things and explain the new factors such as indigenous [movements] or the recuperation of sovereignty over resources. Moratinos often speaks of a “new West” based in values before geography and that should include the Latin Americans that share them. Transatlantic relations should not only refer to the North Atlantic.

The fact that yesterday the Friends of Spain *caucus* was reactivated in the United States Congress, composed mostly of Republicans, is not a symptom of thawing, but of construction and advances that should be captured during the first visit of the Secretary of State to Madrid, before the end of the year, which Rice announced yesterday. The Courts should correspond with a similar forum whose construction Moratinos will ask for upon his return. When Spanish investments in the U.S. have increased 50%, when there are so many interlocking and shared interests, the stubbornness of understanding and the overcoming of disagreements has to be imposed, although neither Bush nor Zapatero seem to be ready, yet, to meet one day themselves.

In a hopeful society, while extremely cautious regarding the Government's attempts for a final dialogue against ETA terrorism, the King's invitation to "deploy every force that will permit us to reach, together, the unwavering objective of putting an end to terrorism" constitutes a spur to continue trusting and to not waiver in the endeavor, despite the obvious difficulties. The words from the Monarch are directed to the whole society, but those who, above all, should take note are the PSOE and the PP, whose divergences regarding the manner in which to reach this common objective are outrageous. Another year more, the King has referred to terrorism, not to regret fatal attacks, but to signal the duty of putting an end to terrorism within the law and the rule of law and remembering the priceless debt contracted to society by its victims.

It is justified that the King continues insisting in the necessity of calming political life and that the [political] parties work with an integrative spirit. His call, last year, to put an end to the climate of tension installed in political life fell on deaf ears: the same climate, murkier if possible, persists in the relations between the [political] parties. In rightfully prudent terms, Don Juan Carlos transpires, for whomever wants to understand it, the concern that this [political] party confrontation produces, far away from the willingness of compromise that made the transition [to democracy] possible.

As already a constant in his latest messages, the King insists in the achievements of democratic Spain in terms of stability, progress, and wellbeing. His perception of the evolution of Spanish society continues to be optimistic; from there his insistence to stay on the track that these achievements have made possible, which is none other than reconciliation and the common will to construct a Spain that is democratic, modern,

united, and respectful of its diversity under the umbrella of the Constitution. There is a new topic in the King's list of concerns: the environment. It is to be hoped that this concern is addressed by those who attack it with disorganized urban development and with intentional or unwise fires so that, as the King signaled, the progress of Spaniards does not end up jeopardized in the future.

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